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FISH AND GAME LAWS OF WISCONSIN

JOHN A. SHOLTS

STATE FISH AND GAME WARDEN

1911

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Fish and Game Laws

OF

Wisconsin

1911

COMPILED BY

JOHN A. SHOLTS

State Fish and Game Warden

MADISON, WIS.

DEMOCRAT PRINTING CO., STATE PRINTER

1911

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PREFACE.

In presenting to the general public and the thousands of sportsmen of this state, this compilation of the laws which deal with the protection of the fish and game, it has been thought well to present some facts concerning this department of interest and enlightenment to its readers, and, in a measure give them some idea of the work which is being attempted.

This state in time gone by has been proud of her vast natural resources, and justly so. However, the larger percentage of her resources in some lines is a thing of the past and she must now look to other fields in an attempt to conserve, where before she was prodigal. It is, therefore, but natural to turn to the numerous streams and lakes abounding in an untold wealth of fish and to her remaining forests with their not yet exhausted stock of wild game.

Considered from a strictly utilitarian standpoint, the value of the fish taken from the waters of the state of Wisconsin, exceed one million dollars per annum. This is simply taking into account the fish caught for commercial purposes and not considering the thousands taken and consumed by the sportsmen of this and other states, who visit our waters annually. In no way is it possible to judge the value of the game which is killed each year, but it is safe to say that the

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value of the game taken will easily cover all of the expenses of the Fish and Game Department.

From a commercial standpoint, then, it is safe to say that the Department of Fish and Game is a paying proposition. It is a department which does not require the levy of an additional tax upon the tax-payers of the state, for the reason that its financial support comes from sportsmen and those who derive direct benefits through licenses sold to them by the department.

Contrary to a popular opinion, the department has been a source of income to the state. Besides paying all expenses incurred by it, at the end of the fiscal year ending June 30, 1911, it had to its credit in the state treasury, $123,255.62 which was placed in the general fund and will pay, in part, the general expenses of the state.

On account, however, of the rapidly increasing population, requiring additional supervision, and the increased cost of living, necessitating greater expense to each deputy warden, it is barely possible that as large a percentage of net income can be shown at the end of this year.

It is the aim of the head of this department to run the department at a minimum expense and still secure efficient men for the work of supervision. It is our desire to take into consideration every measure that will add to the efficiency of the department. The people of the state are rapidly coming to recognize the value of this department, in view of the fact that thousands of visitors have been coming and are coming in greater numbers every year to this state for the purpose of fishing and hunting, thus leaving with us thousands of dollars. Unless we shall continue to give these people satisfaction in good sport, which can only be maintained through constant protection of our

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resources in the way of fish and game, they will go elsewhere, and then the loss will be realized.

The department desires to request the co-operation of all people of the state who are directly or indirectly interested in the cause of protection of fish and game. The work undertaken is a large one, too large for the force which can be kept at work in the field. At present it is necessary for each warden to supervise approximately one thousand square miles of territory, and unless he has the co-operation of people within his territory, it is unlikely that his work can be most effectively carried on.

The department of fish and game, although in its nature semi-public, asks the closest scrutiny of those interested in its administration. Mistakes may be made, but the policy of treating each alike, with special favors to none, shall be strictly pursued. All the matters pertaining to this office are open to the public. Any suggestions or information will be gladly received by the head of the department, and any information desired will be gladly and promptly given.

JOHN A. SHOLTS,
State Fish and Game Warden.

Madison, Wis., July 28, 1911.

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COMPILATION

OF THE

Fish and Game Laws of Wisconsin

1911

PART I.

DEPARTMENT OF FISH AND GAME.

CHAPTER I.

1. State Warden Deputies and Other Officers.
2. Appointment and Tenure of Office.
3. Duties.
4. Possession and Sale of Fish and Game in Closed Season.
5. Seizure and Confiscation.

§ 1. **State fish and game warden; appointment; duty; salary; bond.** Section 1498 as re-enacted by sec. 1, ch. 410, 1903, and amended by sec. 1, ch. 525, 1909, ch. 527, 1911. 1. The governor shall appoint a state fish and game warden by and with the advice and consent of the senate, who shall

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hold his office for the term of two years from the date of his appointment and until his successor is appointed and qualified, unless removed by the governor for misconduct, inefficiency, or neglect of duty; and any vacancy occurring during said term shall be filled by the governor for the residue of the term. It shall be the duty of said warden to secure the enforcement of the law for the preservation of fish and game and to bring or cause to be brought actions and proceedings in the name of the state to recover any and all fines and penalties provided for. He shall also perform the same duties as are in section 1636c, as amended by chapter 353, laws of 1899, prescribed for fire wardens, and shall further report to the land commissioners any information relating to the state lands as shall from time to time be required and concerning any trespasses thereon which may come to his knowledge.

2. Such warden shall devote all his time to the duties of his office and shall receive a salary of two thousand dollars per year and his actual expenses and disbursements to be paid upon vouchers therefor approved by the governor to be paid out of the fund known as the general fund.

3. Before entering upon his duties, the state fish and game warden shall execute a bond to the state of Wisconsin in the penal sum of five thousand dollars for the faithful performance of his duties, and his bond shall be approved by the governor; and each deputy warden shall give bond in the sum of two hundred and fifty dollars conditioned for the faithful performance of his duties, and his bond shall be approved by the state fish and game warden. The cost of said bond, if any, to an amount not exceeding one-fourth of one per cent

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of the amount of said bond shall be paid from the general fund.

§ 2. **Deputy wardens, how appointed; number; special deputies.** Section 1498a, as amended by sec. 1, ch. 312, 1899, sec. 1, ch. 358, 1901 and sec. 1, ch. 525, 1909. The state game warden shall appoint sixty deputy game wardens; he shall appoint one from each senatorial district in the state and the others from the state at large to be distributed in such manner as to promote the best interests of the service. Each such deputy warden shall be selected from a list of eligibles furnished by the state civil service commission, and to that end a separate list of eligibles shall be prepared for each senatorial district. Such deputies when appointed shall hold office during good behavior, and shall in all respects be subject to the provisions of the civil service law. The state game warden may assign work to any deputy warden anywhere within the boundaries of the state. The state game warden may, from time to time as the needs of the service require and the condition of the fund will permit, appoint additional special deputy wardens for temporary or occasional service from an eligible list selected from the state at large. Nothing in this section shall be deemed to affect the tenure or eligibility of persons now in the service.

§ 3. **County wardens, how appointed and paid; reports of wardens.** Section 1498b, as amended by secs. 2 and 3, ch. 312, 1899, secs. 2 and 3, ch. 498, 1901 and sec. 1, ch. 525, 1909. 1. Whenever the county board of any county shall by resolution authorize the appointment of county wardens, and shall fix the number of the same, it shall be the duty of the county judge, district attorney, and

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county clerk, acting as a board of appointment to select the persons for such positions and certify their names to the state fish and game warden, who shall, if in his judgment such persons will make competent and efficient deputy wardens, issue commissions as deputy wardens to such persons so designated. The compensation of each of said deputy wardens so appointed for such county shall be fixed by the board appointing the same, and be paid out of the county treasury the same as salaries of other county officers.

2. All deputy or special wardens shall make to the state fish and game warden full and complete reports of their transactions as such, according to the demand of the state fish and game warden, and shall at all times be held subject to his direction and control in the performance of their duties. They shall also gather and transmit to the state fish and game warden any and all statistical information relative to fish and game as said fish and game warden shall from time to time call for. They shall also promptly make reports concerning forest fires and any trespasses upon the public lands that may come to their knowledge. The state fish and game warden shall make a printed report of work done annually.

§ 4. **State fish and game warden to report to the governor.** Section 14981 as amended by sec. 7, ch. 312, 1899, and sec. 1, ch. 525, 1909. On or before the thirty-first day of December in each year the state fish and game warden shall report to the governor the transactions of his department, including the work of himself and deputies, and such other information as may be valuable to the state concerning the enforcement of the fish and game laws during the year preceding, which report shall

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contain an itemized statement of receipts and disbursements.

§ 5. **Deputy wardens; per diem and expenses, office force how paid.** Section 1498d as amended by sec. 4, ch. 312, 1899, sec. 2, ch. 358, 1901, and sec. 1, ch. 525, 1909, ch. 183, 1911. The deputy wardens appointed as provided in section 1498a, shall each receive a per diem to be fixed by the state warden, by and with the approval of the governor, which per diem shall include pay for such days as each deputy shall be under the direct order of the state warden to perform services in the enforcement of the fish and game laws, and upon certificate of said warden that such services have been actually rendered at his instance and under his direction. In addition to the per diem provided for, such deputies shall receive their actual necessary expenses incurred while working under the direction of the state warden, which expenses shall be paid upon vouchers therefor approved by the governor and countersigned by said state fish and game warden. The said office force, from and after February 1, 1911, shall consist of one bookkeeper at a salary not exceeding twelve hundred dollars per year; one clerk at a salary not exceeding nine hundred dollars per year; and one stenogapher at a salary not exceeding nine hundred dollars per year, and temporary services of help required from time to time to carry out the provisions of law. Such appointments to be made by the state fish and game warden.

§ 6. **Wardens appointed fire wardens.** Section 1498b—2, sec. 2, ch. 408, 1901. The state fish and game warden appointed under the provisions of section 1498, statutes of 1898, all special deputy

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wardens appointed under the provisions of 1498a and all county wardens appointed under 1498b, statutes of 1898, and act amendatory thereof, are hereby appointed and created fire wardens within the meaning and under the provisions of this act. No compensation shall be paid fish and game wardens acting as fire wardens under the provisions of this act other than that received as game wardens.

§ 7. **Commission to deputy wardens.** Section 1498b—1, ch. 404, 1905, and ch. 525, 1909. 1. All deputy fish and game wardens shall before exercising any of the power and authority of a warden, be provided with a commission issued by the state fish and game warden under the seal of his department and approved by the governor. Such commission shall be substantially as follows:

STATE OF WISCONSIN

Department for the Protection of Fish and Game.

To all to whom these presents shall come, greeting:

Know ye, that reposing special trust and confidence in the integrity and ability of ....., of the county of ....., I do hereby, with the consent and approval of the governor, appoint and constitute him a deputy fish and game warden for the state of Wisconsin, and do authorize and empower him to execute and fulfill the duties of that office according to law..... during good behavior and the faithful performance of his duties.

In testimony whereof, I have hereunto set my hand and affixed the seal of my office at Madison, Wisconsin, this.....day of.....

Approved .....

..... State Fish and Game Warden.

Governor ....

Identification card. 2. The game warden department shall furnish each and every deputy fish

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and game warden at the time of his appointment, a pocket identification card or folder in form and substance as follows: A leather covered folder, size when folded, three by four inches, on one of the inner sides thereof shall be securely fastened a photograph of such appointee to be furnished by him and partly on the photograph and partly on the margin of such folder shall be an impression of the seal of the game warden department; such appointee shall also affix his signature below the photograph on such folder. On the other inner side of such folder shall be securely fastened a miniature true copy of the commission issued to such appointee which shall be signed by the state fish and game warden. Such appointee, when exercising the authority conferred upon him, shall on demand of any person to whom he may represent himself as a deputy game warden, exhibit such identification card. When on official duty, such appointee shall at all times carry such identification card on his person.

Impersonation; penalty. 3. Any person who shall falsely represent himself to be a deputy fish and game warden or who shall assume to act as such without having been first duly appointed as herein provided, shall be punished by imprisonment in the county jail not more than six months or by a fine not to exceed one hundred dollars.

§ 8. Seizure of nuisance; disposition of confiscated fish and game. Section 1498k as amended by sec. 6, ch. 312, 1899. It shall be the duty of the warden, each of his deputies and of every sheriff, deputy sheriff, constable, or other peace officer to destroy forthwith any article or thing declared by law to be a public nuisance, when found

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or taken in the unlawful use, which, according to law, makes the same a public nuisance; and no liability shall be incurred to the owner or any other person for such destruction. Said warden and each of his deputies may seize and take possession of, in the name of the state, any fish, venison, birds, fowl or game caught, taken or killed or had in possession contrary to the provisions of law relative to fish and game; and such fish, venison, birds, fowl or game caught, taken or killed or had in possession contrary to the provisions of law are hereby declared to be contraband and shall be sold by the warden or his deputy to the highest bidder; and any person purchasing the same shall have the right to use or dispose of the same in the same manner as though the said fish, venison, birds, fowl or game had been caught, taken, killed or were had in possession in accordance with the provisions of law, anything to the contrary notwithstanding; provided, that after the cost of seizure and sale shall have been paid the clear proceeds shall be paid into the state treasury and credited to the general fund. The right to have in possession and dispose of such fish or game so seized and sold shall expire five days after the date of the sale, and the protection to the purchaser given by this section shall then cease.

See Bittenhaus v. Johnson, 92 Wis. 588.

Houston v. State, 98 Wis. 481.

§ 9. Public nuisances, what are. Section 1498o. The following are declared to be public nuisances:

1. Any net of any kind prohibited by law while set, placed or found in any waters where such net is prohibited by law from being used.

2. All seines or other devices, traps or contriv-

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ances set or found in any waters in a manner prohibited by any law relating to such waters, and any and all boats found in use in the taking of fish in violation of any of the provisions of these statutes.

3. All set lines, ropes or cables with more than one line attached thereto, either directly or indirectly. Set lines are construed to mean any line not held by the person using the same, whether having one or more hooks. This subdivision applies to inland waters only.

4. Any nets spread upon or under the surface of any of the waters of the state which shall or might entrap or ensnare any wild fowl of any kind.

5. Any trap, snares, spring gun, set guns or other device or contrivance which might entrap, ensnare or kill any animals, birds or water fowl protected by law.

6. As amended by section 8, ch. 312, 1899. Any boats, lamps or lights when used in the unlawful taking or attempting to take fish or game.

7. Any pivot or swivel gun or other firearm, not habitually held at arm's length and discharged from the shoulder, while the same shall be in unlawful use.

8. Any screen set in the public waters of the state to prevent the free passage of fish, or set in any stream which shall have been stocked by the commissioners of fisheries.

9. Any boat, floating raft, box or blind set in open water or outside a natural growth of grasses or rushes sufficiently high to conceal the boat, raft or blind, or an artificial blind set in open water for the unlawful pursuit, hunting or shooting of any wild duck, goose or brant.

10. As amended by section 9, ch. 312, 1899. All decoys set in any of the waters of the state,

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during the close season for the hunting of any variety of waterfowl as prescribed by law, and any decoys set in the water more than two hundred feet from the cover, which said cover shall be construed to mean the weeds, rushes or other vegetation in which the hunter may locate, or any place in which the hunter shall wholly or partially conceal himself.

11. The unlawful use of any of the articles mentioned in this section, contrary to the provisions of law, shall forfeit the same to the state, and upon their being found under any of the conditions which shall render them public nuisances as specified herein they may be immediately destroyed.

§ 10. Same, continued. Section 34, ch. 489, 1905. Any boat and its equipments, any net or other device for trapping, catching or killing fish, when used in violation of any of the provisions of this act is hereby declared a public nuisance and may be seized and disposed of as provided by law.

§ 11. Contraband, what declared to be. Section 14, ch. 437, 1903, and ch. 527, 1911. Any boat together with its machinery, sails, tackle and equipment, and any gun used in violation of any of the fish and game laws of this state, is hereby declared to be contraband and may be seized, confiscated and sold by any game warden to the highest bidder, and the net proceeds of sale paid into the state treasury and credited to the general fund.

§ 12. Powers of warden and deputies in serving warrants and in seizing and disposing of public nuisances; wardens to devote time to duties of office. Section 1498c, as amended by ch. 525, 1909.

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1. The warden and his deputies shall each have full authority to execute and serve all warrants and processes issued by any justice of the peace or police magistrates or by any court having jurisdiction under any law relating to fish and game, in the same manner as any constable may serve and execute such process, and arrest without warrant any person by him detected in actually violating any of the provisions of the law relating to fish and game, and may take such person so offending before any court and make proper complaint.

2. It shall further be the duty of such warden and his deputies upon receiving information that any law relative to fish and game has been violated, to immediately cause a thorough investigation to be made and proceedings to be instituted if the proof at hand warrants. Such warden and his deputies may seize and forthwith destroy any and all apparatus designated by any law relating to fish and game to be a public nuisance.

3. It shall be their duty to seize and confiscate in the name of the state any fish or game caught, killed, or taken in violation of any law or had in possession contrary thereto, to sell the same at highest market price, and pay the proceeds to the state treasurer less the expenses of such seizure and sale.*

4. It shall also be their duty to seize and hold subject to the order of the court all apparatus, appliances, or devices which either of them shall have reason to believe is being used in violation of the fish and game law, and which is not designated by law as a public nuisance; and if it be proven that

* Note—Respecting sale of confiscated game and disposition of proceeds thereof see also section 20 of this compilation.

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the same is or has been, within six months previous to such seizure, used in violation of law, the court before which the said apparatus, appliance, or device is taken, may order the destruction or sale of the same to the highest bidder, after having declared it confiscated to the state. If sold to the highest bidder the warden or deputy selling it shall remit to the state treasurer the amount received therefor, less the expense of seizure and sale. When under pay of the state all wardens shall devote their time exclusively to the performance of the duties of their office.

§ 13. **Powers and duty of warden and deputies respecting searches for and seizure of game or fish unlawfully taken or held, and to arrest with or without warrant.** Section 4560a—23, ch. 649, 1907, and ch. 525, 1909. 1. The state fish and game warden or any of his deputies shall seize any game, or fish, taken or held in violation of the laws of this state; and every such officer may arrest, with or without a warrant, any person whom he has reason to believe guilty of a violation thereof, and with or without a warrant, may open, enter, and examine all buildings, camps, vessels, boats, wagons, cars, stages, tents, and other receptacles and places where he has reason to believe that fish or game taken, or held in violation of the laws of the state are to be found, and seize such game or fish, if any be found therein, but no dwelling house shall be searched for the above purposes without a warrant, or sealed railroad cars be opened, entered, or searched without a warrant.

2. Any person who shall refuse to permit an officer charged with the enforcement of the fish and game laws entry into any buildings or enclosures, vessels, boats, wagons, vehicles or conveyance, cars,

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stages, tents, and other receptacles and places, except dwelling houses while permanently occupied and to take possession of any fish, game, or any unlawful contrivance used for the taking of fish or game, upon demand made by him to that effect, shall be fined not less than twenty-five dollars nor more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail not less than thirty nor more than ninety days, or by both such fine and imprisonment.

Section 4560h repealed.

§ 14. **Possession of fish and game during closed season; not to be served in hotel, restaurant or boarding house.** Section 4565e, as amended by sec. 12, ch. 311, 1899, and ch. 525, 1909. Any person who shall have in his possession or under his control any variety of fish, animals, game birds, except whitefish and lake trout, during the closed season prescribed by law therefor (except alive) or any carcass or flesh thereof, and any keeper of a hotel, restaurant, or boarding house who shall serve to any of his guests or boarders any such fish, venison, animals, game birds, except whitefish and lake trout at any time, except as otherwise provided by law, or to have in his possession or under his control during the closed season therefor, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days. Such possession or control of the birds, fowls, or animals, protected by the laws of the state during the closed season therefor, is prohibited, and the penalty herein contained attaches thereto, whether the said fish, birds, fowls, or animals were taken within or without this state, or lawfully or unlawfully taken.

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§ 14a. Residents may have deer meat during close season for use in family. Section 4565f; sec. 12, ch. 311, 1899. Provided, however, that any person residing in this state who shall lawfully kill any deer may keep and consume the meat thereof in his own family by serving written notice on the game warden or the deputy warden on or before the last day of the open season for killing of deer, which notice shall state as near as may be when and where said deer was killed and the number of pounds of venison then in his possession, and that the same is to be kept and used for his own family.

Note—See also sec. 25a, ch. 312, 1899.

§ 15. Possession of fish and game in cold storage during close season prohibited. Section 4565g; sec. 25, ch. 312, 1899. It shall be unlawful and is prohibited to have in possession during the close season therefor, any of the varieties of fish or game protected by the laws of this state, except whitefish and lake trout, whether the same shall have been lawfully or unlawfully taken, and it is hereby made the duty of any owner or occupant of any cold storage warehouse or building used for the storage or retention of fish or game to permit the entry and examination of the premises by any officer authorized to enforce fish and game laws. And the said owner, occupant or agent, or servant, or employe thereof, shall deliver to said officer or agent any fish or game in his possession during the close season therefor, whether the same shall have been taken within or without the state, and whether the same shall have been taken lawfully or unlawfully. Any person who shall have in his possession or under his control any fish or game protected by the laws of this state, or who shall

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refuse to permit any officer charged with the enforcement of fish and game laws, entry into any cold-storage warehouse, and possession of any fish or game therein contained, during the close season for such fish or game, shall be punished by a fine of not less than fifty dollars, nor more than one hundred and fifty dollars, or by imprisonment in the county jail not less than sixty days nor more than four months, or by both such fine and imprisonment.

§ 16. **Sale or purchase of fish or game during close season prohibited.** Section 4566, as amended by sec. 13, ch. 311, 1899. Any person who shall sell, or offer for sale, or purchase, or have in possession any fish, game, birds, fowls or animals, except whitefish and lake trout, protected by the laws of this state at any time during the close season prescribed therefor, respectively, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days.

§ 17. **Sale of meat of deer and certain game birds prohibited.** Section 45651; sec. 1, ch. 449, 1903. Whoever shall sell, or offer for sale, have in his possession for the purpose of sale or shall barter, trade or exchange for other property, or shall have in his possession for the purpose of barter, trade or exchange for other property, or whoever shall purchase, or receive in exchange for other property, or having in his possession after purchase, or receiving in exchange for other property, within the limits of this state the meat or flesh of any doe, buck or fawn, (commonly known as venison) or any wild duck of any variety, wild

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goose, brant or any other aquatic bird, or any woodcock, partridge, pheasant, prairie chicken or prairie hen, grouse of any variety, plover, snipe, Mongolian, Chinese or English pheasant or quail of any variety, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars, and not more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than ninety days, or by both such fine and imprisonment.

§ 18. **Proceedings for warrant to search and seize; duty of officer serving.** Section 1498k—1; sec. 1, ch. 300, 1901. Upon complaint made to any magistrate authorized to issue warrants in criminal cases, by any person that he knows or has good reason to believe that any fish, venison, fowl or game caught, taken or killed or had in possession contrary to the provisions of law relative to fish and game is concealed in any particular house or place, he shall examine such complainant on oath, reduce his complaint to writing, describing as particularly as may be the place where said fish, venison, fowl or game is alleged to be concealed and cause the same to be subscribed by the person complaining. If it appears to such magistrate that there is proper cause to believe that such fish, venison, fowl or game so caught, taken or killed or had in possession contrary to law, is concealed in such house or place he shall immediately issue his warrant reciting therein the substance of the complaint and containing a description of the premises described therein and requiring the officer to whom it shall be directed forthwith to search such premises and seize any such fish, venison, fowl or game described in the complaint and to bring the same,

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when found, and the person in whose possession the same shall be found, before the magistrate who issued the warrant or before some other magistrate or court having cognizance of the case. The officer executing such warrant shall state in his return as particularly as may be the property seized, which shall be safely kept by the direction of the court or magistrate so long as shall be necessary for the purpose of being used as evidence on any trial and as soon as may be afterward all such fish, venison, fowl or game so caught, taken or killed or had in possession contrary to the provisions of law relative to fish and game, shall under the direction of the court or magistrate, be sold and disposed of as contraband in accordance with the provisions of section 1498k of the statutes of 1898.

§ **19. Exemption from liability.** Section 1498j. In the performance of his duties as warden or deputy warden, each of them shall be exempt from any and all liability to any person for acts done or permitted or property destroyed under and by virtue of the authority of law.

§ **20. Confiscated fish and game, how disposed of.** Section 4560a—11; ch. 287, 1907, ch. 525, 1909, and ch. 527, 1911. 1. All protected birds, fowls, or animals confiscated by any warden shall be sold at the highest market price, the proceeds thereof to be turned into the state treasury, and credited to the general fund.*

Section 22, ch. 437, 1903, repealed.

Note—Animal—Any animate being which is not human, endowed with the power of voluntary motion. Bouvier, Law Dic. According to this definition animals include fish.

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* See also, sec. 12 of this compilation.

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2. The state game warden or his deputies shall issue a certificate to the person purchasing, certifying that the same was legally obtained from said warden. The person so buying said game shall have five days in which to consume same, but no part thereof shall be resold by said person purchasing from said state or deputy game warden, provided that this shall not be construed to prevent any restaurant, club, or hotel keeper from buying and serving said game to guests.

3. Provided a statement certifying said fish or game was purchased from the state, same being confiscated property. The said certificate shall be hung in public view in place where fish or game is served. Said game shall be tagged by the game warden selling the same, and said tag shall show the date of sale, and shall be returned to said game warden within five days from the date of purchase.

4. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars, and the cost of prosecution, or by imprisonment in the county jail in the county in which the offense was committed not less than ten days nor more than twenty days.

§ 21. **Wardens of other states, when agents of this state.** Section 1498—7; sec. 27, ch. 312, 1899. The state game warden of every other state, and his deputies and all other officers charged with the enforcement of fish and game laws are hereby designated the agents of this state for the taking possession of, seizing, holding and disposing of any fish and game protected by the laws of this state.

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§ 22. Duty of sheriffs, coroners, and police officers to assist in enforcing fish and game law. Section 1498e. All sheriffs, deputy sheriffs, coroners and police officers are ex-officio deputy fish and game wardens, and it shall be the duty of each of them to assist the state warden or his deputies in the enforcement of the fish and game law upon notice being given to either of them that a violation of law has been brought to the attention of such warden or either of his deputies.

§ 23. Duty of district attorney to prosecute actions. Section 1498g. It shall be the duty of every district attorney to prosecute actions for violations of the law relating to fish and game, when complaint is made by the state fish and game warden or any deputy, if his presence at the trial of such offender against such laws shall be deemed necessary by the magistrate, before whom the same shall be brought.

See State v. Nergaard, 124 Wis. 414.

§ 24. Attorney general, duty to advise warden and assist in enforcing law. Section 1498f. The attorney general and his assistants shall advise the state warden concerning the discharge of his duties and assist him in the enforcement of the fish and game law, aid in the prosecution of cases arising under such law or in which said warden or any of his deputies shall be interested as such officers, and conduct the prosecution when for any reason said warden shall deem such prosecution necessary; assist him in the investigation of matters relative to the law protecting fish and game and the violations thereof in such other manner and at such times as shall be necessary.

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PART II.

HUNTING.

CHAPTER II.

1. **Licenses for Hunting.**
2. **Hunting License Fund.**
3. **Residents and Non-residents.**
4. **Licenses for Non-resident Fishermen.**
5. **Deer and Moose; Hunting, Possession and Transportation of.**
6. **Domestic Deer, Moose, Elk and Caribou.**

§ 23. **Title of fish and game in state.** Section 4560, as amended by sec. 26, ch. 312, 1899. The ownership of and the title to all fish and game in the state of Wisconsin is hereby declared to be in the state and no fish or game shall be caught, taken or killed in any manner or at any time, or had in possession except the person so catching, taking, killing or having in possession shall consent that the title to said fish and game shall be and remain in the state of Wisconsin for the purpose of regulating and controlling the use and disposition of the same after such catching, taking or killing. The catching, taking, killing or having

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in possession of fish or game at any time, or in any manner, or by any person, shall be deemed a consent of said person that the title of the state shall be and remain in the state for said purpose of regulating the use and disposition of the same and said possession shall be consent to such title in the state whether said fish or game were taken within or without this state.

§ 26. Hunting licenses; residents and non-residents; how issued; disposition of fees. Section 1498p, as amended by sec. 10, ch. 312, 1899, sec. 3, ch. 358, 1901, ch. 525, 1909, and ch. 527, 1911. 1. The state fish and game warden shall issue licenses for the hunting of game in the manner and under the conditions hereinafter stated.

2. All such licenses issued to non-residents shall be countersigned by the secretary of state.

3. All fees for such licenses shall be paid to the secretary of state previous to the issuing thereof, and shall be by him paid to the state treasurer, and become a part of the general fund.

4. The state fish and game warden shall procure the printing of all licenses for the hunting of game and a record of such license issued to non-residents shall be kept in the office of the fish and game warden.

5. All licenses to persons who are residents of the state shall be numbered consecutively at the time they are printed, and shall be furnished by the state fish and game warden to the clerks of the several counties in the state. Such clerks shall issue the same upon the terms and conditions hereinafter provided.

6. Two forms of licenses for non-residents shall be issued, to-wit: One for hunting deer, and the other for the hunting of game protected by the

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laws of the state with the exception of deer; provided that a person holding a license for the hunting of deer is hereby authorized to hunt for any game protected by the laws of the state during the seasons and under the conditions prescribed by law, and the termination of said license shall be stated on its face. Not more than one license shall be issued to the same person in any one year.

7. The state fish and game warden may issue duplicates for licenses lost, upon payment of fifty cents. Applicants must furnish affidavit as to loss of license.

§ 27. License for resident; to be issued by county clerk. Section 1498s, as amended by sec. 13, ch. 312, 1899, and ch. 525, 1909. 1. Every person who has resided in this state for one year previous to applying for a license to hunt game and who desires to hunt the same must first obtain a license from the county clerk of the county in which he resides, which said license shall be issued by said county clerk, under seal, upon blanks furnished by the secretary of state. Said license shall certify that the licensee is a bona fide resident of the state of Wisconsin, and give a description of such person such as shall be required by the secretary of state and the state fish and game warden in the blank licenses furnished to said county clerk.

Application. 2. The application for such license shall show that the licensee is a resident of this state, shall give his residence and his post-office address, shall contain a description of his person, and such other information as shall be required by the secretary of state and the state fish

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and game warden, shall be verified by the affidavit of the applicant and some resident of the county other than himself acquainted with the facts as set forth in the application.

Fee. 3. The county clerk shall receive with each such application for license the sum of one dollar, ten cents of which he shall retain, and the remainder he shall transmit to the state treasurer. *

Coupons. 4. The license so issued to any resident of this state shall have attached one coupon for the shipment of deer, which coupon shall be divided into two sections lettered "A" and "B" respectively. The holder of a resident coupon license shall be entitled to offer for transportation or have transported within the state by a common carrier of this state one carcass of a deer or part of carcass of deer on the coupon attached to license.

Transportation; coupons to be detached. 5. The agent receiving the carcass or part of carcass for transportation shall detach section "A" of the coupon on which the same is to be transported and forward said section to the state fish and game warden. Section "B" is to be attached to the carcass or part of carcass of deer received for transportation and the two sections of the coupon must be cancelled by the said receiving agent with the date of reception for shipment and his initials written or stamped plainly thereon. While in

* The attorney-general has ruled that the 10 cent fee allowed county clerks for issuing licenses belongs to them personally and not to the county, even though they receive a fixed salary in lieu of fees. Report of Atty.-Gen., 1906, p. 615.

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transit, section "B" of the coupon must be on the carcass or part of carcass of deer, or the said carcass or part of carcass of deer shall be subect to seizure as contraband game. The receiving agent or employe of transportation companies or common carriers are required to transmit to the fish and game warden section "A" of the coupon as herein required, must so transmit the same within two days of the date of shipment.

Common carrier; penalty. 6. Any agent, servant, or employe of any transportation company or common carrier who shall receive for shipment or transport any carcass of deer or part of carcass without having the coupon attached thereto as herein provided, or who shall refuse or neglect to detach section "A" of the coupon as herein provided, or who shall fail to transmit or forward to the state fish and game warden as herein provided the section by him detached shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in th county jail not less than thirty days nor more than three months, or by both such fine and imprisonment in the discretion of the court.

Duty of common carrier. 7. No transportation company or common carrier shall receive for transportation, or transport or attempt to transport any carcass of deer or part of a carcass of deer unless the same shall be received for transportation, carried and delivered pursuant to the provisions of this section relative to the coupon and parts thereof, and shall only be received for shipment, carried, or delivered during the season or time which the laws of the state shall fix as the open season for the transportation of carcass of deer or parts of carcasses of deer.

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Confiscation. 8. Any carcass or part of carcass of any deer had in possession in or near any hunting camp or found in transit or in any place for sale or storage, without the section of the hunting license coupon mentioned attached, may be seized, confiscated, and sold by any warden as provided by law.

Penalty. 9. Any resident or any non-resident who shall neglect or refuse to comply with the provisions of this act, or any person, company or corporation who shall receive for shipment or ship any carcass or part of a carcass of any deer in violation of this act shall on conviction thereof be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than three months.

§ 28. Resident licenses may be issued to actual settlers who have resided in state less than one year; ;Section 1498s—1; s c. 23, ch. 437, 1903; ch. 525, 1909, and ch. 527, 1911. 1. Resident hunting licenses may be issued in the discretion of the state game warden, upon proper showing, to actual settlers in this state who may not have resided in this state for a year immediately preceding the making of the application for the same. Such licenses to be issued by the state fish and game warden who shall keep in his office a complete record of all licenses issued by him under this section. No hunting license shall be issued to any person under fifteen years of age.

§ 29. License to non-resident for deer and other game; fees; application; non-resident defined. Section 1498r, as amended by sec. 12, ch. 312, 1899. Every person who has not resided

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in this state for one year previous to the time of applying for a license to hunt any of the game protected by the laws of the state of Wisconsin shall, for the purposes of obtaining a license to hunt game, be considered a non-resident thereof, and shall, in order to be entitled to a license for the pursuing or killing of game in this state during the seasons or times which the law permits the hunting, pursuit or killing of game, pay to the secretary of state the following sums, to-wit: For a license to hunt deer in the season therefor as fixed by law, which said license shall include permission to hunt any and all other kinds of game protected by law, in the several seasons or times fixed therefor, twenty-five dollars; for the hunting of all kinds of game protected by the laws of the state, in the seasons or times fixed therefor by law, with the exception of deer, ten dollars. The application for either of such licenses shall state the residence of the applicant and answer such other questions or give such other information as may be required by the secretary of state and the state fish and game warden and be verified by the affidavit of the applicant that the residence stated and the answer made or information given are true.

§ 30. **License valid, for what time.** Section 1498q, as amended by sec. 11, ch. 312, 1899, ch. 311, 1907 and ch. 525, 1909. 1. Each license for the hunting of game issued under the provisions of law shall state for what year the same is granted, and shall be valid for no other period, nor for any time or season than that which the law shall designate to be the open season for game permitted to be hunted, taken, or killed by the terms of such license, subject to the proviso that all kinds of game or fish can be hunted or taken

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in their season and under the conditions of law by a person holding a license for the hunting of deer and fishing for game fish.

Non-residents; license to fish with hook and line. 2. It shall be unlawful for any male non-resident over the age of sixteen years to fish with hook and line in any of the inland waters of this state without having procured a license therefor as hereinafter provided. The state game warden or any deputy game warden may issue to any male non-resident over the age of sixteen years, a license to fish with a hook and line in any inland waters of this state during the open season for fishing upon the payment by such non-resident of one dollar for such license which license shall be in substantially the following form, to-wit:

License No.....

The holder thereof, (hereof) ....., whose residence is....., County of ....., State of ....., is hereby permitted to fish with hook and line within the state of Wisconsin, subject to the limitations and restrictions of the game laws of the state of Wisconsin.

.....

.....

Game Warden.

Address.....

Penalty. 3. Any male non-resident over the age of sixteen years, who shall fish with hook and line in any of the inland waters of this state without having procured a license as herein provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than fifty dollars, or by imprisonment in the county jail not more than thirty days.

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License to be numbered. 4. The licenses for non-residents of the state for the hunting of deer, and the general game license for non-residents of the state, shall be numbered consecutively when issued from the office of the secretary of state, and be upon paper of color differing the one from the other; and both of these licenses provided for non-residents shall differ essentially in color from the licenses provided to be furnished to residents.

Contents of license. 5. The licenses shall contain the name and place of residence of the licensee, and such other matter and information as may be required by the secretary of state and the fish and game warden, to identify the licensee or more perfectly guard against the violation of the law.

Resident and non-resident. 6. The licenses issued to persons not residents of this state shall recite that the licensee is a non-resident of the state; those prepared for issuance to residents of the state shall state that the licensee is a resident. All coupons or stubs shall contain like information.

Stubs. 7. Each license issued by the county clerk shall be provided with two stubs; indicating the number of the license, to whom granted, the residence of the licensee, and such other information as may be required by the state fish and game warden. One of such stubs shall be detached by the clerk issuing the license and shall be sent to the state fish and game warden by him. The other stub shall be retained in the office of the county clerk and become a part of the records.

Coupon. 8. Each license for the hunting of deer, issued to a non-resident of the state, shall be provided with one coupon containing the essential

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information of the license relative to the number of the license, and the name of the licensee, and such other information as the state fish and game warden may determine to embody therein, including the express statement that the licensee is a non-resident of the state. Such coupon shall be divided into three sections, lettered A., B., and C., respectively.

Transportation. 9. The holder of a non-resident deer and small game license shall be entitled to offer for transportation and have transported within or without the state by a common carrier of this state one carcass of a deer or part of a carcass of a deer on the coupon attached to his license.

Section of coupon to be detached. 10. The agent receiving the carcass or part of the carcass of a deer for transportation shall detach section A of the coupon on which it is to be transported, and forward said section to the state fish and game warden; sections B., and C., are to be attached to the carcass or part of carcass of deer received for transportation, and all three sections of the coupon must be cancelled by said receiving agent with the date of reception for shipment and his initials written or stamped plainly thereon.

Sections to be on carcass. 11. While in transit within the state, sections B., and C., of the coupon must be on the carcass of deer or part of carcass of deer, or the said carcass or part of carcass shall be subject to seizure as contraband game.

Section C of coupon to be sent to state fish and game warden. 12. If the place of delivery of said carcass or part of carcass is within the state of

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Wisconsin, the deliv ry agent of the common carrier or transportation company shall, before the delivery to the consignee, detach section C., of the coupon, and forward said section to the state fish and game warden, leaving section B. attached to the carcass or part of carcass.

Deer consigned to points outside of state. 13. The receiving or delivering agents or employes of transportation companies or common carriers, required to transmit to the state fish and game warden sections of the coupon as herein required must so transmit the same within two days of the date of shipment or delivery respectively. If the carcass or part of carcass of deer be consigned to a point without the state of Wisconsin, the agent, servant, or employee of the transportation company or common carrier who shall be in charge of the carcass or part of carcass while in transit within this state, shall detach section C., of the coupon, and deliver the same to the agent, servant, or employee of the transportation company or common carrier at the last station or place in the state where the train or other conveyance of the said transportation company or common carrier shall stop, and it shall be the duty of said agent, servant, or employee of the said transportation company or the common carrier to whom said section of the coupon is delivered to immediately forward the same to the state fish and game warden after writing or stamping thereon the name of the station or place and date of reception thereat of said section of said coupon.

Penalty. 14. Any agent, servant, or employee of any transportation company or common carrier who shall receive for shipment or transport any

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carcass of deer or part of carcass of a deer without having the coupon or sections of coupon attached thereto as herein provided, or who shall refuse or neglect to detach the sections of the coupons as herein provided, or who shall fail to transmit or forward to the state fish and game warden as herein provided the sections by him detached, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than three months, or by both such fine and imprisonment in the discretion of the court.

Duty of carrier. 15. No transportation company or common carrier shall receive for transportation or transport or attempt to transport any carcass of deer or part of carcass of deer unless the same shall be received for transportation, carried, and delivered pursuant to the provisions of this section, relative to the coupons or parts of coupons, and shall only be received for shipment, carried, or delivered during the season or time which the laws of the state shall fix as the open season for the transportation of deer or parts of carcasses of deer.

§ 31. Hunting license fund. Section 1498—1; sec. 6, ch. 358, 1901, and ch. 527, 1911. 1. All moneys sent to the state treasurer in payment of hunting and fishing licenses, except as provided in sections 1498v and 1498w of the statutes, and all moneys sent to the state treasurer by any game warden as the proceeds of any sale of confiscated fish or game shall be turned into and become a part of the general fund, and all moneys now in the state treasury credited to the hunting license fund,

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shall be turned into and become a part of the general fund.

2. The appropriations heretofore made for maintaining of fish and game department shall not in any fiscal year exceed the amount paid into the state treasury in payment of hunting and fishing licenses and as the proceeds of the sale of confiscated fish and game.

3. There is annually appropriated to the state commissioners of fisheries, out of any moneys in the state treasury not otherwise appropriated, the sum of sixty thousand dollars annually for the maintaining and operating of state fish hatcheries.

4. There is appropriated to the state commissioners of fisheries, out of any moneys in the state treasury not otherwise appropriated, the sum of ten thousand dollars for the purpose of erecting and equipping two fish hatcheries on or near the shores of lake Michigan, one-half of which shall be available during the fiscal year commencing July first, 1911, and one-half of which shall be available during the fiscal year commencing July first, 1912.

5. There is appropriated to the state commissioner of fisheries, out of any moneys in the state treasury not otherwise appropriated, the sum of five thousand dollars for making repairs and improvement on the state fish hatchery, one-half of which sum shall be available during the fiscal year, commencing July first, 1911, and one-half of which shall be available during the fiscal year commencing July first, 1912.

6. Any of the moneys so appropriated to the commissioners of fisheries, not used in any one year, shall be available for use the following or subsequent years.

7. The commissioners of fisheries are authorized,

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if the funds in their hands are sufficient, to construct a cottage for the foreman of the state hatchery at Delafield.

Section 2. Chapter 419, of the laws of 1909, and subsection 2, of section 1498s—1, of the statutes, are hereby repealed.

§ 32. Same, continued; wardens, how paid. Section 1498—9; sec. 29, ch. 312, 1899; ch. 525, 1909. Except as above provided, all such license money so received shall be set aside by the state treasurer and shall constitute a fund for the payment of the game wardens. The liability of the state for per diem salaries and expenses of game wardens appointed under this act or otherwise and for all other services and expenses incurred, for any purpose under or in consequence of this act, shall be limited to the funds of the fish and game warden department, and in no event shall the state pay any such salaries or expenses or be liable in any manner therefor, except to the extent of such funds, any contract, express or implied, of the game warden to the contrary notwithstanding. And said game warden shall not issue any voucher, nor shall the governor approve any voucher, if issued by said warden, under the provisions of this act or otherwise for any such per diem, salary, services, or other expenses of any kind unless the money to pay such voucher shall at the time be on hand to pay the same.

Note—The exception referred to in the first sentence of the above section is found in sub-section 2 of section 1498s—1, which immediately precedes this section in ch. 525, laws of 1909, and is a part of section 28 of this compilation.

§ 33. Penalty for hunting without license, and for transferring license; hunter to display license

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on request. Section 1498a—1; ch. 394, 1907, and ch. 551, 1911. Any resident or non-resident of this state who shall pursue, hunt, kill or trap any of the birds, fowls or animals protected by the laws of this state without being at the time of such pursuing, hunting or killing, in possession of a license duly issued to him, which license shall cover the period in which he shall be so pursuing, hunting or killing such game, or who shall furnish to another person during the open season for such game, or permit such other person to have during the said open season, a license issued to him, shall be fined not less than twenty-five dollars nor more than one hundred dollars or be imprisoned in the county jail not less than one month nor more than six months, or by both such fine and imprisonment. Provided, that nothing in this act shall be construed to prevent the owner or occupant and members of their families of any land from hunting and killing rabbits thereon at any time or squirrels during the open season without a license.

Section 2. Any person while hunting, pursuing or trapping game shall have such license on his person and shall display the same upon the request of any person authorized to enforce the fish and game laws. The failure or refusal of any person to display such license as hereinbefore provided shall be deemed prima facie evidence of the violation of the provisions of this act.

Secs. 4 and 5, C. 358, L. 1901 (secs. 14 and 14a, 1899), repealed by this act.

§ 34. Same, continued. Section 4562a; sec. 30a, ch. 312, 1899. Any person who shall pursue, hunt or kill game protected by the laws of this state without being at the time of such pursuing, hunting or killing in possession of a license duly

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issued to him, which license shall cover the period in which he shall be so pursuing, hunting or killing such game, or who shall furnish to another person, during the open season for such game or permit such another person to have, during such season, a license issued to him, shall be fined not less than fifty dollars nor more than two hundred dollars, or be imprisoned in the county jail not less than two months nor more than six months.

§ 35. **Altering license for hunting of deer; penalty for.** Section 4562b. Any person who shall change or alter in any manner a license for the pursuit, hunting or killing of deer shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than six months nor exceeding one year.

§ 36. **Fraud in obtaining license to hunt deer; penalty for.** Section 4562c. Any person who shall make to any county clerk authorized to issue licenses for the pursuit, hunting or killing of deer a false statement concerning his residence, and thereby obtain such a license therefor as only residents of this state are entitled to, shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not less than four months nor more than one year, or in the state prison not exceeding one year.

§ 37. **Hunting without permission on land of another; penalty for.** Section 4565d, as amended by sec. 20, ch. 358, 1901. Any person who shall enter into any growing or standing grain not his own, with firearms or permit his dog to enter into

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any such grain, without the permission of the owner or occupant of the land on which such grain is situate or any person who shall, without permission of the owner, hunt or shoot on the premises of another enclosed by a fence and used as a pasture for stock, or shall hunt or shoot upon any other land of another after being notified not to hunt or shoot thereon, shall be punished by a fine of not less than five dollars nor more than ten dollars and in default of payment thereof, shall be imprisoned in the county jail not less than ten days nor more than thirty days; provided, that this section shall not limit or in any way affect civil liability on account of such trespass. Any owner or occupant of land may give the notice provided for in this section by maintaining sign boards, at least one foot square containing such notice upon at least every forty acres of the premises sought to be protected, in at least two conspicuous places, or by giving personal, written or verbal notice.

Note—This section was first amended by section 11, chapter 311, laws of 1899. It was again amended by section 20, chapter 358, laws of 1901. When this last amendment was enacted, no reference was made to the amendment of 1899 and the amendment of 1901, so far as the recitative portion thereof is concerned, merely added certain words to the original section. Nothing was repealed by it. Nor is there any repealing clause in the act. The section as amended in 1899 contained the following additional provisions, and it is doubtful whether they were repealed by the enactment of 1901.

See Svennes v. West Salem, 114 Wis. 650.

No person shall enter any land inclosed by a fence and belonging to another, which said enclosure is kept and maintained as a deer park or game preserve by the owner thereof, and hunt or

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shoot therein without the consent of the owner of such enclosure, and any person who shall hunt or kill any deer or game within such park or preserve at any season of the year shall be deemed guilty of a misdemeanor and shall on conviction thereof, be fined not less than ten nor more than twenty-five dollars, and costs of prosecution, and in default of payment of such fine and costs he shall be imprisoned in the county jail not less than fifteen days nor more than thirty days; provided, that this section shall not limit or in any way affect civil liability on account of such trespass, nor shall any person having posted notices as heretofore provided in this section enter upon the premises of another for the purpose of hunting or killing protected game, whether the land is cultivated or uncultivated, without first having obtained the permission of the owner of such premises, under the penalty as heretofore provided in this section. Any owner or occupant of land may give the notice provided for in this section by maintaining signboards, at least one foot square, containing such notice, upon at least every forty acres of the premises sought to be protected, in at least two conspicuous places, or by giving personal, written or verbal notice.

Note—A state license to hunt does not confer any right upon the holder thereof to go upon lands owned by private parties without their permission. Diana Shooting Club v. Lamoreaux, 114 Wis. 44.

§ 37a. **Relating to taxable costs in actions of trespass on wild and uninclosed lands.** Section 3575m, ch. 293, 1911. 1. Taxable costs in any action brought by the owner of any wild and uninclosed lands against any person for trespass by hunting or fishing thereon, shall in no case exceed

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the damages awarded such owner for the actual injury caused by such trespass.

§ 38. **Duty of county clerk as to license money and indexing licenses.** Section 1498—6; sec. 24, ch. 358, 1901 as amended by sec. 12, ch. 437, 1903. It shall be the duty of each county clerk in this state to remit to the state treasurer, on the first day of each month, all moneys received by him for hunting or fishing licenses during the preceding month, and to report to the state fish and game warden the number of licenses issued, and the amount of money remitted to the state treasurer. He shall also keep in an index book the names of all licensees in alphabetical order, said names to be entered at the time the licenses are issued. Any county clerk who shall fail or refuse to comply with any of the provisions of this section shall on conviction thereof pay a penalty of not less than five dollars nor more than ten dollars or by imprisonment in the county jail not less than five days nor more than ten days.

§ 39. **Wardens may inspect records of licenses.** Section 1498t, as amended by sec. 15, ch. 312, 1899. The state fish and game warden, or either of his deputies may, at any time examine the records of licenses issued by county clerks.

§ 40. **Deer hunting; closed season in state and several counties; number that may be killed; prohibited methods of hunting; killing of moose prohibited; penalties.** Section 4562d, as amended by sec. 9, ch. 311, 1899, sec. 9, ch. 358, 1901, sec. 17, ch. 437, 1903, ch. 436, 1905, ch. 259, 1907, ch. 525, 1909, ch. 124, 1911, and ch. 563, 1911. 1. It shall be unlawful and is hereby prohibited to hunt,

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take, capture, or kill, by any means or in any manner whatever, or to pursue with the intent to hunt, take, capture, or kill:

(a) Any deer between the first day of December and the tenth day of November, of the succeeding year, both inclusive (hereby intending to include in the closed season for hunting deer all the year, except the last twenty days of November, inclusive);

(b) Any deer in the counties of Grant, La Fayette, Green, Rock, Walworth, Kenosha, Racine, Milwaukee, Waukesha, Jefferson, Dane, Iowa, Crawford, Richland, Sauk, Columbia, Dodge, Buffalo, Washington, Ozaukee, Sheboygan, Fond du Lac, Green Lake, Pepin, Marquette, Adams, Vernon, Monroe, La Crosse, Waushara, Winnebago, Calumet, Manitowoc, Outagamie, Brown, Kewaunee, Portage, and Waupaca at any time.

(c) Any deer, with a dog or dogs at any time;

(d) Any deer in the "night-time," as that term is defined in section 4637a of the statutes;

(e) Any deer in the water or on the ice of any stream, lake, or pond at any time;

(f) Any deer by means of any pit, pit-fall, trap, or snare at any time;

(g) Any deer by the aid of artificial light at any time;

(h) It is made unlawful to place any salt in any place for the purpose of enticing deer thereto or to construct, occupy, or use any elevated scaffold or other device for the purpose of hunting, watching for, or killing deer;

(i) Any moose at any time.

2. (a) It shall be unlawful and is prohibited for any resident to kill more than one deer or any nonresident to kill more than one deer in any one year, or to have in his possession the skin of any deer

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when it is in the red coat or the skin of any fawn when it is in the spotted coat (except when such skins are possessed as otherwise provided by law) or to have in his possession the carcass of more than one deer or parts of carcass of more than one deer during any one year.

(b) The term "deer" as used in this act shall be construed to mean a buck, doe, or fawn, and the term "carcass or part of carcass" as used in sections 1498q and 1498s shall not be construed to mean the hide when separated from the rest of the body of the deer.

(c) Any person violating any of the provisions of this act, excepting subdivision (b) of paragraph 1, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which the offense was committed not less than two months nor more than six months, or by both such fine and imprisonment in the discretion of the court.

(d) Any person violating subdivision (b) of paragraph 1 of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which the offense was committed not less than three months nor more than six months, or by both such fine and imprisonment in the discretion of the court.

§ 41. Hunting with dogs prohibited in counties where deer are allowed to be hunted or killed during open season therefor. Section 4560a—20; ch.

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201, 1907, ch. 525, 1909. 1. It shall be unlawful and is hereby prohibited for any person or persons to hunt any game of any kind with a dog or dogs during the month of November, in the counties where deer are allowed to be killed or hunted or to have a dog or dogs in his or their possession during the month of November in or about a hunting or logging camp in the counties where deer are allowed to be hunted. The finding of any dog or dogs with any person shall be deemed prima facie evidence of his or their guilt, and any dog or dogs found running deer at any time shall be declared a public nuisance and may be seized, confiscated, or killed, and it shall also be unlawful to run or use a pointer or setter dog or dogs in the field, or upon lands frequented by, or upon which game birds may be found between the first day of August and the 10th day of September, and any dog or dogs so used in violation of this act may be seized, confiscated, or killed.

2. Any person violating any of the provisions of this act shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty nor more than ninety days.

Sec. 15, ch. 358, 1901, as amended, repealed.

§ 42. Deer; carcass, hides, heads; shipment and possession of; permit to ship live animals. Section 4560a—16; ch. 414, 1907; ch. 525, 1909. It shall be unlawful and is hereby prohibited to ship to any point, either within or without this state by common carrier, or convey or cause to be conveyed by private carrier:

(a) Any carcass or part of carcass of any deer between the third day of December and the succeeding twelfth day of November, provided that the shipments of green hides or green heads of

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deer are not to be had in possession after January 3rd or between January 3rd and November 11th of any year.

(b) Or to have in possession a deer head when in the velvet, a deer hide in the red or blue coat, a fawn hide when in the spotted coat, or any untanned deer hide from which the hair has been removed; provided that nothing in this act shall be construed as to prohibit the shipment into this that manufacturers dealing in such hides shall keep from another state, if the same be for the purpose of manufacture within this state; provided further that manufacturers dealing in such hides shall keep a record of all such hides, bought, that the same may at any time be open to inspection by the state game warden or his deputies.

Section 4560a—17; ch. 414, 1907; ch. 525, 1909. 1. Any officer authorized to enforce the fish and game laws of this state shall seize, confiscate, and sell all deer heads in the velvet, all deer hides in the red or blue coat, all fawn hides in the spotted coat, and any untanned deer hides from which the hair has been removed, found within the borders of this state, Confiscations under this act shall include the entire shipment. Any person or persons buying hides or heads from such officer or officers shall be allowed to manufacture the same as he or they may desire. Nothing in this act shall apply to any deer head in velvet, deer hide in the red or blue coat, or spotted fawn hide in possession at the time of the passage of this act, mounted, dressed, or manufactured.

2. The state fish and game warden may, on application of any park board, grant a permit to ship live deer or moose or animals or game birds for park purposes. Said applicants must make affidavit that they are members of said board at the time of the request.

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3. Any person v'olating any of the provisions of sections 4560a--16 and 4560a—17 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county ja'l for not less than thirty days nor more than sixty days.

§ 43. Deer, moose, elk and caribou; fur bearing animals; and game birds; permit to breed or domesticate; application; shipment. Section 1498im; ch. 525, 1909; ch. 166, 1911. 1.The fish and game warden may issue permit to breed or domesticate deer, moose, elk and caribou (known as ruminants), beaver, otter, fisher, marten, muskrats, mink and raccoon (known as fur bearing animals), and game birds upon application to it, which shall contain.

(1) The name and address of the applicant.

(2) A description of the premises on which the applicant will keep such domesticated animals and game birds.

(3) The number and kinds of animals and game birds in possession at the time of making the application and whether they are wild or domesticated.

2. The application shall be accompanied by a fee of fifty cents for ach animal (known as ruminants) and five cents for each fur bearing animal or game bird in possession. The fish and game warden may thereupon issue a permit to the applicant to keep such animals and game birds. Any person holding such permit shall annually, on the first day of January report to the fish and game warden any increase or decrease had upon the original number applied for, together with a fee of fifty cents for each additional animal (known as ruminants) and five cents for each fur bearing animal and game bird. The fish and game warden shall keep a rec-

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ord of all persons holding such permits and shall send to them numbered tags to be attached to each of the animals and game birds.

3. Any such animals or game birds may be sold or shipped within or without the state upon receipt of written permission to do so from the fish and game warden, but must have attached to it the number tag hereinbefore provided for.

4. No portion of the carcass of any such animal (known as ruminants). or fur bearing animals nor game birds shall be shipped without having attached thereto a tag designating the date of issue of such tag, the name and address of the person holding the permit to breed or domesticate such animals and game birds and the number of tags which were attached to such animals and game birds while alive. The fish and game warden shall, upon application and without expense to the shipper, furnish for any person holding a permit to breed or domesticate deer not to exceed ten tags for any one carcass.

5. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than fifty dollars and the cost of prosecution, or by imprisonment in the county jail in the county in which the offence was committed not less than twenty days nor more than sixty days, or by both such fine and imprisonment in the discretion of the court.

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CHAPTER III.

1. Rabbits and Fur Bearing Animals.
2. Hunting Rabbits With Ferrets Prohibited.

44. Fur bearing animals; rabbits, squirrel, beaver, otter, fisher, marten, mink and muskrat; closed season in state and for different animals in various counties and localities; possession of hides; use of ferrets. Section 4565c—5. Section 2, ch. 525, 1909, repeals section 4565c—5 and section 3, ch. 525, 1909, creates the present section 4565c—5 amended by ch. 551, 1911, ch. 71, 1911, creating sub-section 6 of section 1, and ch. 80, 1911. 1. It shall be unlawful and is hereby prohibited to take, catch, kill, hunt or pursue:

(1) Any rabbit, grey, fox or black squirrel between the first day of February and the tenth day of October next succeeding, except as otherwise provided, and excepting further than in the counties of Chippewa, Rusk, Eau Claire, Pierce, St. Croix, Portage, Waupaca, Richland and Waushara, it shall be unlawful to take, catch, kill, hunt or pursue any rabbit, grey, fox or black squirrel between the first day of February and the tenth day of September next succeeding; but in the counties of Crawford, Grant, Iowa, Kenosha, Lafayette, Sauk, Door, Bayfield, Chippewa, Douglas, Price, Rusk, Taylor, Racine, Burnett, Polk, Barron, St. Croix, Richland, Monroe, Winnebago, Langlade, Forest, Florence, Shawano, Jackson, Clark, Sawyer, Washburn, Ashland, Buffalo, Pepin, Oconto, Adams, Marquette, Fond du Lac, Oneida, Iron, Vilas and Vernon, there shall be no closed season for the hunting of rabbits, and there shall be no open season for grey, black or fox squirrels in Waukesha county.

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2. Any beaver or otter at any time.

3. Any fisher, marten, mink, [redacted] between the fifteenth day of March and the fifteenth day of November next succeeding.

4. Any otter between the first day of March and the fifteenth day of September next succeeding.

5. Any fisher, marten, mink, or muskrat by means of a spear or gun, dog or dogs, at any time.

6. Any raccoon between the first day of January and the first day of October next succeeding.

2. It shall be unlawful and is hereby prohibited to disturb or molest muskrat houses or beaver houses, or beaver dams, or raccoon den trees for the purposes of capturing the raccoons, in any manner or at any time, or to set any trap or traps at any time within five hundred feet of any beaver dam or beaver house, except under supervision of fish and game warden's department.

3. It shall be unlawful and is hereby prohibited to have in possession the green hides of any of the above enumerated animals during the closed season for taking of same, and all guns, traps, boats or other implements used in violation of the provisions of this act may be seized, confiscated, and sold by any warden as provided by law.

4. The possession of all hides, except raccoon showing that the same have been shot or speared is prima facie evidence of guilt.

5. Any muskrat between the tenth day of April and the fifteenth day of November next succeeding; provided that the owner or occupant of any land on the shores of Big Wolf river from the dam at Shawano to its mouth, Lake Winnebago, Lake Butte des Morts, Lake Winneconne, Lake Poygan, Fox river, and tributaries in Winnebago, Waupaca, Portage, Waushara, Green Lake and Marquette counties, is allowed to kill, pursue, and trap muskrat on land owned or occupied by him between the fif-

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To be Inserted After Section 2 of Paragraph 44, page 52. Fish and Game Laws, 1911.

CHAPTER 559, LAWS OF 1911.

The state fish and game warden and deputy game warden may catch and take any beaver which may become a nuisance by reason of dams built by said animals. But the catching and taking of any beaver shall be under the supervision of the state game warden or a deputy game warden, and all beaver so taken alive shall be liberated upon such portion of the state forest reserves as the state game warden shall deem most suitable. The state game warden shall use every effort to capture such beaver alive, but in the event that any such beaver are killed in the taking, the hides or skins shall be sold by the state game warden, and the proceeds of such sales shall be credited to the general fund of the state. The state game warden shall keep a complete record of the number of beaver killed and liberated.

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teenth day of October and the first day of March next succeeding in any manner; provided, further, that owners of cranberry marshes are allowed to kill muskrat at any time when said muskrats are destroying their dams; provided, further, that the hides of muskrats taken in the localities exempted above shall be retain d by the person so taking and shall not be sold or disposed of in any manner until the general open season.

6. Any person or persons found violating any of the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than sixty days, or by both such fine and imprisonment.

Note—Section 4565c of the statut s was repealed by ch. 567, laws 1907.

§ 43. **Hunting rabbits with ferrets prohibited.** Section 4560c—1; ch. 609, 1907, amending ch. 405, 1905; ch. 551, 1911. 1. It shall be unlawful and is hereby prohibited to hunt, take, kill or pursue rabbits with ferrets, or to have a ferret or ferrets in possession while hunting.

2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which the offense was committed of not less than ten days nor more than twenty days or by both such fine and imprisonment in the discretion of the court. All ferrets used in violation of this act are hereby declared a public nuisance and may be seized and disposed of by the state fish and game warden in the manner provided by law.

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CHAPTER IV.

Birds.

1. Classified.
2. Insect Destroying; Nests and Eggs.
3. Aquatic Fowl.
4. Upland Game Birds.
5. Possession and Transportation.

§ 46. Killing of birds other than game birds prohibited; game birds enumerated. Section 4565b—1; sec. 1, ch. 156, 1901, ch. 544, 1907. No person shall, within the state of Wisconsin, kill or catch or have in his or her possession, living or dead, any wild bird other than a game bird, nor shall purchase, offer or expose for sale, any such wild bird after it has been killed or caught. No part of the plumage, skin or body of any bird protected by this section shall be sold or had in possession for sale. For the purposes of this act the following only shall be considered game birds;

Gallinaceous birds or upland birds, to-wit: pheasants, grouse, partridge, bob-white or quail, and prairie chicken;

Anatid (oe), or swimmers, to-wit: wild geese, brant, swan, all varieties of wild duck including American coot or mud hen;

Limicol (oe) shore birds or waders, to-wit: woodcock, snipe, plover, rail and rice hens; designated by name and protected by the game laws of the state.

§ 47. Destruction of nest or eggs. Section 4565b—2; sec. 2, ch. 156, 1901. No person shall, within the state of Wisconsin take or needlessly

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destroy the nest or the eggs of any wild bird, nor shall have such nest or eggs in his or her possession.

§48. **Penalty for violation.** Section 4565b—3; sec. 3, ch. 156, 1901. Any person who violates any of the provisions of this act, shall be guilty of a misdemeanor and shall be liable to a fine of five dollars for each offense, and an additional fine of five dollars for each bird, living or dead, or part of bird or nest and eggs possessed, in violation of this act, or to imprisonment for ten days, or both at the discretion of the court.

Note—The three preceding sections do not apply to persons holding a certificate giving the right to take birds and their nests and eggs for scientific purposes. Sec. 4, ch. 156, 1901; see sec. 126 of this compilation.

§ 49. **What birds not included.** Section 4565b—4; sec. 7, ch. 156, 1901. The English or European house sparrow (passer domesticus), the American crow (corvus americanus), the sharp-shinned hawk (accipiter velox), Cooper's hawk (accipiter cooperii), owls (ulula cimera), and blackbirds are not included among the birds protected by this act.

§ 50. **Destruction of birds' eggs; penalty.** Section 4565a. Any person who shall take or destroy the eggs or nest of any water-fowl or bird, except crows and English sparrows, shall be punished by a fine of not more than five dollars or by imprisonment in the county jail for not more than ten days.

§ 51. **Carrier pigeons; taking or impeding progress of.** Section 4565b. Any person who shall take, catch, kill, impede its progress or otherwise interfere with any carrier or homing-pigeon shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail for not more than three months.

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§ 52. Harmless birds; penalty for killing or molesting nest. Section 4565, as amended by sec. 10, ch. 311, 1899, and ch. 525, 1909. Any person who shall take, catch, kill, or molest a nest or the eggs of any harmless bird at any time or for any purpose whatever, except as authorized by law, any whippoorwill, nighthawk, bluebird, finch, thrush, robin, lark, turtle dove, or any other harmless bird, shall be punished by a fine of not less than five dollars for each bird nor more than fifty dollars or by imprisonment in the county jail for not more than thirty days, provided that this section shall not apply to blackbirds, crows, English sparrows, or pigeons for trap-shooting.

§ 53. Upland game birds; woodcock, partridge, plover, snipe, grouse and quail; close season for, in state; prairie chicken, close season in various counties; penalty. Section 4562e; ch. 449, 1905; ch. 627, 1907; ch. 525, 1909, and ch. 120, 1911. It shall be unlawful and is hereby prohibited to take, catch, kill, hunt, or pursue:

(a) Any woodcock, partridge, plover, or snipe, between the first day of December and the succeeding 10th day of September, or

(b) Any prairie chicken or prairie hen or grouse of any variety between the first day of October and the succeeding tenth day of September, in any of the following named counties, to-wit: Ashland, Adams, Barron, Burnett, Buffalo, Brown, Bayfield, Chippewa, Clark, Crawford, Dodge, Dunn, Douglas, Grant, Eau Claire, Iowa, Jackson, Juneau, La Fayette, Marquette, Monroe, Oconto, Outagamie, Pepin, Polk, Pierce, Portage, Richland, Rusk, Sawyer, Shawano, St. Croix, Vernon, Washburn, Waushara, Waupaca, and Wood. Marathon Marquette

(c) Any prairie chicken or prairie hen or grouse

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of any variety in any other county than those hereinbefore enumerated before the first day of September, A. D. 1915 or

(d) Any Mongolian, Chinese or English pheasant or quail of any variety before the first day of October, A. D. 1915.

Penalty. Section 4565f. Any person who shall violate any of the provisions of section 4562e shall be deemed guilty of a misdemeanor and shall be punish d by a fine of not less than twenty-five dollars nor more than fifty dollars, and the costs of prosecution, or by imprisonment in the county jail not less than twenty days or more than sixty days, or by both such fine and imprisonment in the discretion of the court.

§ 54. **Aquatic birds; closed season.** Section 4563, as amended by sec. 1, ch. 267, 1899, sec. 2, ch. 449, 1903, ch. 113, 1905; ch. 315, 1907, and ch. 525, 1909. It shall be unlawful to take, catch, kill, hunt, or pursue, or have in possession:

1. Any variety of wild duck (including American coot or mud hen), rail, or rice hen, between the first day of January and the succeeding first day of September in any year;

2. Any wild goose or brant, between the first day of May and the succeeding tenth day of September in any year;

3. Any swan at any time.

Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty nor more than fifty dollars and the costs of prosecution, or by imprisonment in the county jail for not less than twenty days nor more than sixty days or by both such fine and imprisonment.

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§ 55. Aquatic fowl; prohibited methods of hunting. Section 4563b—1; ch. 415, 1907, and ch. 525, 1909; ch. 68, 1911; ch. 389, 1911. 1. It shall be unlawful and is hereby prohibited for any person or persons:

(1) To pursue, take, catch, or kill any aquatic fowl by any other means than by the use of guns held at arm's length and discharged from the shoulder;

(2) To pursue, take, catch, or kill any aquatic fowl, or to hunt with or shoot from any boat, canoe, contrivance, or device whatever, on any of the waters of this state outside or beyond the natural covering of weeds, rushes, or other vegetation growing above the water, nor within such natural covering or vegetation in any boat or craft except such as are propelled by paddle, oar, oars, or pole.

(3) To use more than twenty-five decoys by each person; such decoys to be personally set and watched in water not more than two hundred feet from natural covering by the owner, or owners; all decoys, boats, or contrivances used in violation of this act are hereby declared to be contraband and may be seized and sold to the highest bidder under the direction of the game warden making the seizure, and the proceeds to be turned into the general fund.

(4) To pursue, take, catch, or kill any aquatic fowl between one-half hour after sunset and one hour before sunrise;

(5) To hunt or molest aquatic fowl, other than wild geese and brant by the use of a rifle, but nothing in this section contained shall prevent the pursuing, taking, catching or killing of wild geese and brant, by the use of shot guns held at arm's length and discharged from the shoulder upon the frozen waters, rivers and lakes of this state between the eleventh day of September of any year and the suc-

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ceeding thirtieth day of April, of the following year, except on Lake Geneva, in Walworth county.

2. Any person who shall violate any of the provisions of this act shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars and the costs of prosecution, or by imprisonment in the county jail not less than twenty days nor more than sixty days, or by both such fine and imprisonment.

Note—Sections 4563a and 4563b of the statutes are repealed by ch. 415, 1907.

§ 56. **Same, continued.** Section 4564a. Any person who shall place in or upon any waters frequented by wild duck any net of any kind in such position that it will or may ensnare the ducks so frequenting said waters shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail, not less than sixty nor more than ninety days.

§ 57. **Snares, nets, traps, spring guns; use of prohibited.** Section 4563c. Any person who shall take, catch or kill or attempt to take, catch or kill any animals, birds or water fowl protected by laws by means of any snare, net, trap or spring gun or similar contrivance, or place, spread or set any such net, trap, snare or spring gun or contrivance for the purpose of catching, or which might catch, take or ensnare any such animals, birds or water fowl, shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail not more than sixty days; provided, that nothing herein shall conflict with section 4564a, (W. S., 1898; s c. 56 of this compilation).

§ 58. **Pivot gun or swivel gun; use of prohibited.** Any person who shall use in pursuit of any

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animal, fowl or bird any pivot gun or swivel gun, or any other fire-arm not habitually held at arm's length and discharged from the shoulder, shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than three months.

§ 59. **Game birds; number limit and shipping rules; resident and non-resident; transportation, penalties.** Section 4560a—22, ch. 586, 1907; ch. 51, 1911. 1. It shall be unlawful and is hereby prohibited to kill or have in possession, or ship to any point either within or without this state, by common carrier, or convey or cause to be conveyed by private carrier, during any one day.

(a.) More than five of any variety of grouse, prairie chicken, or woodcock; or more than ten wild geese or brant;

(b.) More than ten partridge;

(c.) More than fifteen wild duck of any variety, (including American coot or mudhen), plover, snipe, rail and rice hens;

(d.) Any Mongolian, Chinese or English pheasant, swan, bob-white or quail;

(e.) The possession of any protected game birds by any person who is not in possession of a hunting license then in force, shall be unlawful.

2. A resident of this state may carry with him as baggage or express or in his personal possession, the full limit of any one kind of game bird provided in this act or a mixed bag containing not more than twenty of the game birds herein enumerated, the bag not to contain more than the limit fixed herein for any one variety of said game birds; and provided that the same be carried or conveyed only to points within this state, and that same must be accompanied by the shipper from point of shipment to point of destination.

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3. A non-resident may take thirty game birds and carry, convey or transport the same under the limitations and restrictions provided for residents in sub-section two of this act, to points within or without this state, provided, however, that not more than thirty game birds shall be conveyed, carried or transported by any non-resident beyond the borders of this state, in any one year.

4. It shall be unlawful and is hereby prohibited for any common carrier, or agent, servant, or employe of a common carrier to receive for transportation or to transport beyond the borders of this state, any birds protected by the law of this state, except when the same be in the personal possession of, or carried as baggage or express by the owner thereof, and such owner shall have in his possession at the time of such taking out of the state a non-resident license, then in force, duly issued to him under provision of law, and shall accompany the said birds, fowls or animals on the same train or other conveyance of the common carrier beyond the borders of this state.

5. It shall be unlawful and is hereby prohibited for any person, to ship within this state any birds protected by the laws of this state, except when the same shall be in the personal possession of or carried as baggage or express by the owner thereof, and said owner shall have in his possession, a hunting license, then in force duly issued to him under the provision of law, and shall accompany said birds on the same train or other conveyance; provided, there shall be only one shipment each day by any one person and that the number of birds carried at any one shipment shall not exceed twenty, as provided in sub-section two of this act. All game killed, shipped or had in possession in violation of this act may be seized, confiscated, and disposed of

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by the state fish and game warden or either of his deputies as provided by law.

6. Any person who shall violate any of the provisions of this act, or has in possession with intent to ship or convey to any point either within or without this state any game protected by the laws of this state, or any part thereof in violation of any of the provisions of this act, or any common carrier, or agent thereof who aids or abets any person or persons in shipping such game birds or has the same in possession with intent to ship or convey, to any point within or without this state, contrary to any of the provisions of this act, shall be punished by a fine of not less than twenty-five nor more than one hundred dollars and the costs of prosecution, or by imprisonment for not less than ten nor more than ninety days and in addition thereto shall pay a penalty of five dollars for each bird or part thereof taken, caught, killed, transported or offered for transportation or had in possession in violation of the provisions of this act.

Note—Chapter 406, laws of 1905; section 17, chapter 312, laws of 1899, and section 18, chapter 312, laws of 1899, as amended, are hereby repealed.

§ 59a. Permits to take and transport game birds. Section 4566j; sec. 1, ch. 449, 1903. The state fish and game warden is hereby authorized to issue to any person a permit to take and transport game birds for propagating purposes within the state, provided the same be done under the supervision of a deputy game warden.

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PART III.

FISH AND FISHING.

CHAPTER V.

Provisions Relating to Both Inland and Outlying Waters.

1. **Navigable Waters.**
2. **Meandered Lakes.**
3. **Waters Classified; Inland and Outlying.**
4. **Fish Classified; Game and Rough.**
5. **Dynamite, Use of Prohibited.**
6. **Use of Nets.**
7. **Destructive Fish.**

§ 60. **Navigable waters are common highways.** Sec. 1, Art. IX, Constitution of Wisconsin. The state shall have concurrent jurisdiction on all rivers and lakes bordering on this state so far as such rivers or lakes shall form a common boundary to the state and any other state or territory now or hereafter to be formed, and bounded by the same; and the river Mississippi and the navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be com-

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mon highways and forever free, as well to the inhabitants of the state as to the citizens of the United States, without any tax, impost or duty therefor.

Note—"While the owner of the land on a stream has the exclusive right to fishing on his own land, he must so exercise that right as not to injure others in the enjoyment of the same right above and below him on the same stream. He has no right, by means of dams or other artificial obstructions, to prevent the passage of fish up and down the stream."

Biennial Report and Opinions, Atty.-General 1904, page 486.

§ 61. Rights of public on meandered lakes. Section 1607a. All lakes wholly or partly within this state which have been meandered and returned as navigable by the surveyors employed by the government of the United States or which have been so meandered and are navigable in fact are hereby declared to be navigable and public waters, and all persons shall have the right to pass to and fro, be and remain thereon and have and enjoy all other rights and privileges thereon and thereto to the same extent and with like effect as in, to, over and upon any other navigable or public waters, provided, that this section shall not affect actions pending on the first day of May, 1895, or interfere with any rights theretofore acquired.

See Attorney General ex rel. Askew vs. Smith, 109 Wis. 532.

Rossmiller v. State, 114 Wis. 169, 186.

§ 62. Waters classified as inland and outlying. Section 4560a, as amended by sec. 1, ch. 437, 1903, sec. 1, ch. 489, 1905, and ch. 147, 1907. All waters within boundaries of the state of Wisconsin as prescribed by the act of congress approved August 6th, eighteen hundred and forty-six, entitled "An act to

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enable the people of Wisconsin territory to form a constitution and state government and for the admission of such state into the Union," shall, for the purpose of enforcing the fish and game laws of this state, be classed and defined as inland waters except Lakes Superior and Michigan, and the harbors and bays immediately connected with said lakes, Green Bay, Sturgeon Bay and Sawyers Harbor, the Fox river from its mouth up to the dam across said river at the city of Depere, the Manitowoc river within the city limits of the city of Manitowoc, that part of the St. Croix river known as Lake St. Croix and that part of the Mississippi river known as Lake Pepin, which are hereby classified and defined as outlying waters.

Note—Fountain City bay is part of the inland waters of the state.
Biennial Report, Atty. General, 1908, page 403.
Superior Bay is part of the outlying waters of the state.
Opinion, Atty. General, Dec. 21, 1908.

§ 63. Fish classified as "game fish" and "rough fish;" game fish enumerated; perch classed as game fish and pickerel as rough fish in various waters; closed season for different fish. Section 4560—4; sec. 2, ch. 489, 1905, ch. 193, 1907, and ch. 525, 1909; ch. 74, 1911; ch. 374, 1911. 1. For the purpose of construing and enforcing the laws of this state, relating to the protection, taking, and having in possession of fish, the following named fish are hereafter to be known and classed as "game fish."

2. Any brook trout, rainbow trout, brown trout, grayling, strawberry bass, calico bass, croppie, small mouth black bass, large mouth black bass, Oswego bass, green bass, yellow bass, silver bass, white bass, rock bass, pike, catfish, muskellunge, sturgeon, and pickerel. All fish not classed as "game fish"

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are hereafter to be known and classed as "rough fish." Except in Lake Winnebago, Lake Buttes des Morts and Poygan, Fox River, and Wolf river and tributary streams within Winnebago county, perch shall be classed as game fish and pickerel shall be classed as rough fish.

3. Pickerel shall be classed as rough fish between Kilbourn dam and the Plover dam on the Wisconsin river, in Douglas county and in the Mississippi river. In Green Lake county there shall be no closed season for rock bass.

4. In Big Yellow river from mouth to Babcock, Lemonweir from mouth to mouth of Bear Creek, pickerel shall be classed as rough fish. In Lake Koshkonong, that part of the Catfish river lying in Rock county and that part of the Rock river lying in Dodge, Jefferson and Rock counties, there shall be no closed season for fish caught with hook and line, except large mouth bass and small mouth bass.

§ 64. **Use of dynamite or other explosives, poison or stupefying substances prohibited; penalty.** Section 4560a—14, ch. 603, 1907; ch. 151, 1911; Repeals subsections 5, 6 and 7 of 4560d of ch. 525, 1909. 1. It shall be unlawful and is hereby prohibited to take, catch, or kill in any of the water of this state, any fish by means of dynamite or other explosives or by means of poisonous or stupefying substances, or to place explosives which, if exploded, would or might cause the destruction of fish in any of the waters of this state, except for the purpose of raising dead bodies when used by order of the public authorities; or for the purpose of clearing a channel or breaking a log jam in any of the streams of this state.

2. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon

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conviction thereof shall be punished by a fine of not less than fifty nor more than two hundred dollars and the costs of prosecution and in addition thereto two months imprisonment in the county jail for each offense.

Section 4560f, statutes of 1898, is hereby repealed.

3. The possession upon any inland water, of any dynamite or other explosive, shall be prima facie evidence that the same is possessed for an unlawful purpose.

4. Any person violating any of the provisions of sub-section 3 of this section shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, and the costs of prosecution, or by imprisonment in the county jail of the county in which such offense was committed, not less than sixty days nor more than six months, or by both such fine and imprisonment in the discretion of the court.

§ 65. Rules and regulations for setting and using licensed nets. Section 25, ch. 489, 1905. The following rules and regulations shall be strictly observed by persons operating, setting or using nets, when licensed to do so by law:

(1) No net or nets shall be set or placed so as to shut off the entire channel of the water in which the same may be used or operated nor to prevent the free passage of fish up or down in any river.

(2) No seine shall be drawn over spawning beds of game fish during the spawning season.

(3) No net shall be used until the same is equipped with metal tags stamped to designate the kind of net and numb r to correspond with the number of the license authorizing the operation of said net; one such metal tag to be securely fastened to each two thousand lineal feet or fraction thereof, of

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gill net, and one such metal tag to each seven hundred lineal feet of pound net leaders, or fraction thereof, and one such metal tag to each five hundred lineal feet of seine or fraction thereof and one metal tag to each fyke or hoop net. Such metal tags to be furnished to the owners of such nets by the game warden department on the payment of twenty-five cents for each tag, by the owner.

(4) Every person using or operating any gill net, pound net, fyke or hoop net under license authorizing the use thereof shall fasten and maintain at the ends of any such nets when the same is set in the water, a white flag not less than six inches square which shall project at least two feet above the water and shall have marked thereon the number of the license in figures at least three inches in height.

§ 66. Possession of nets; effect of, as evidence. Section 4567h; sec. 28, ch. 489, 1905. The possession of any net or nets, designed to catch fish, except as authorized by law, shall be prima facie evidence of an intent that such net or nets are to be used for an unlawful purpose and such net or nets possessed without being lawfully authorized, are hereby declared to be a public nuisance and shall be seized and disposed of by the state fish and game warden or any one of his deputies, in the manner provided by law.

Paragraph 66a. Prohibiting the drawing of nets. ch. 104, 1911. Sec. 4567h—1 1. It shall be unlawful, and it is hereby prohibited for any person to draw or lift nets or seines in the nighttime, being between sunset and sunrise, for the purpose of taking or catching fish in any of the waters of this state except Lake Superior, Lake Michigan and Green Bay.

2. Any person who violates the provisions of this act shall be punished by a fine of not less than

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twenty-five nor more than one hundred dollars, or by imprisonment in the county jail not less than ten nor more than thirty days, or by both such fine and imprisonment.

§ 67. State game warden authorized to take destructive fish by means of nets. Section 4560f—10; sec. 14, ch. 489, 1905. The state fish and game warden is hereby authorized to take by means of nets from any of the waters in this state buffalo-fish, carp, dogfish, garfish, eelpout, pickerel, red-horse, sheepshead, or suckers when such fish or any of them become so numerous as to destroy or retard the propagation of game fish therein, and sell the fish so taken for the best price he can obtain therefor. For the purpose of keeping such fish until he can sell the same he may create temporary fish ponds in the waters of this state.

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CHAPTER VI.

Provisions Relating to Inland Waters.

2. License to Use Set Lines.
3. Permits to Take White Fish With Gill Nets.
4. Dip Nets to Take Rough Fish in Streams
1. License to Take Rough Fish With Nets. Flowing Into Lake Michigan.
5. Dip Nets In Rock and Crawfish Rivers.
6. Minnow Seines and Nets In Trout Streams and In Turtle Creek.
7. Prohibited Methods of Fishing.
8. Ice, Fishing Through; Building, etc., On.
9. Closed Season.
10. Sale and Transportation.

§ 68. License to take certain rough fish in any inland waters, exceptions. Sec. 4560a—2 ch. 480, 1909; ch. 643, 1911. 1. The state fish and game warden may upon application by any resident or non-resident of the state of Wisconsin, issue a license to use and operate a seine, fyke, hoop net or turtle net in any of the inland waters of the state of Wisconsin exc pt Rice lake, French lake, Mud lake, Round lake, French slough, Spring creek, Spring slough and Black river in La Crosse county; Courtois pond and Frenchtown slough in Crawford county; B aver lake or pond in Dodge county; Cassville slough from Glenhaven to Cassville, Daley lake, Wyalusing bay and Glen lake between Wyalusing and the Burlington railroad bridge, Plondke and Harris sloughs, Crawford lake, Fairy (Ferry) lake and Vertram lake, all in Grant county; Koshkonong lake in Jefferson, Rock and Dane counties; Lakes

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Kegonsa, Waub sa, Monona and Mendota in Dane county; Round lake, Second lake, Third lake, Mud lake, Spring lake and Trempealeau river in Trempealeau county; all inland waters of Walworth county; Lake Poygan in Waushara and Winnebago counties; Lakes Winneconne, Butte des Morts and Little Lake Butte des Morts in Winnebago county; Lake Winnebago in Winnebago, Calumet and Fond du Lac counties; the Fox and Wolf rivers; and that part of the Mississippi river within fifteen hundred feet of the Chippewa river, at any time; and except Beef slough, and all inland bays, sloughs, bayous, lakes and rivers, in Buffalo county, and except Thompson lake, Dead lake and all inland bays, sloughs, bayous lakes and rivers in Pepin county, for the purpose of catching or taking buffalo fish, carp, redhorse, suckers, sheephead, eelpout, garfish and dogfish.

License, issuance and expiration of; not transferable. 2. Such nets shall not be set, used or operated, except in the manner hereinafter prescribed by law. Licenses issued under the provisions of this act shall not be issued before the first day of June, and shall expire on the first day of April succeeding the date of their issue, and shall not be transferable.

Application; fee; metal tags; nets to be operated under direction of warden; per diem of warden. 3. Any resident or non-resident of this state who shall desire to set, use, or operate nets under the provisions of this act shall make application to the state fish and game warden therefor upon blanks to be furnished by the game warden department and shall accompany such application with a fee as follows; for a seine of five hundred feet and not over one thousand feet, twenty-five dollars; of one thou-

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sand feet or over; fifty dollars each; for fyke or hoop nets, five dollars each. No nets shall be used until the same are equipped with metal tags, stamped to designate the kind of net and number to correspond with the number of the license, authorizing the operation of said net or nets, one such metal tag to be securely fastened to each net. Such metal tags shall be furnished to the licensee of such net, by the game warden department on the payment of twenty-five cents for each tag by the licensee. Any licensee operating a seine, seines, fyke or hoop net under the provisions of this act shall do so under the direction and personal supervision of the state fish and game warden or one of his deputies but not otherwise. Every person obtaining a license to set or operate nets under this provision of this act shall pay a per diem and all expenses of the game warden supervising such fishing.

Bond to be executed and delivered or cash deposit made. 4. Before any license shall be issued under the provisions of this act the applicant shall execute and deliver to the state fish and game warden a bond running to the state of Wisconsin, in the sum of two hundred dollars, with two sureties and conditioned that if the applicant shall well and faithfully observe and comply with all of the requirements of this section and the rules and regulations which are or may be hereafter prescribed by law, said obligations shall be null and void, otherwise to remain in full force. Each such surety shall be worth at least the sum of two hundred dollars in property in this state, over and above all debts and liabilities and property exempt by law from sale or execution. In lieu of such bond said licensee may make a cash deposit of two hundred dollars or provide the bond of any surety company authorized to do business in this state.

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Licensees may construct temporary fish ponds. 5. Licensees operating nets under the provisions of this act are hereby permitted to construct temporary fish ponds in the waters of this state for the purpose of keeping fish therein until the same can be marketed, provided that fish so taken may be shipped to points within or without this state at any time in any quantity.

Fish not specified in license to be returned to the water. 6. Every person using or operating nets under the provisions of this act shall immediately, carefully, and in a manner to do no injury return to the waters from which the same shall have been taken all fish not specified in his license and if any person shall be found in possessio . of any fish not enumerated in his license, it shall be deemed to be prima facie evidence of violation of this subsection.

Fish taken, how disposed of. 7. All fish authorized to be taken by nets under this act shall be brought to shore and sold, buried, or otherwise disposed of, but none of such fish shall be returned to the water.

Nets and seines, when to be drawn or lifted. 8. No licensee under the provisions of this act shall himself, or by his agents or employees, draw or lift any net or nets or land any seine before sunrise or after sunset, and every person using or drawing a seine shall land the seine to a back stop only, which back stop must be in not less than three feet of water.

Record of licenses to be kept. 9. The state fish and game warden shall keep a complete record in his office of all licenses issued under this act, and all moneys received for same shall be paid to the state treasurer and become a part of the general fund.

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Penalty. 10. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, and the cost of prosecution, or by imprisonment in the county jail in the county in which the offense was committed, not less than thirty days nor more than ninety days or by both fine and imprisonment in the discretion of the court. In addition thereto all apparatus used or employed by him in such violation shall be confiscated by the state fish and game warden. Nothing herein contained shall be construed as prohibiting the use of seines, as provided herein, in Lake Koshkonong in Jefferson, Dane and Rock counties and Lakes Kegonsa, Waubesa, Monona and Mendota from September 1, 1911, to April 15, 1912, and from September 1, 1912, to April 15, 1913.

Note—Section 1, ch. 480, 1909, repeals section 4560a—2, of the statutes, and creates the foregoing section 4560a—2; also repeals section 4560f—11, of the statutes, being sec. 15, ch. 489, 1905.

Licenses granted under the repealed laws were revoked by the repeal of the laws, and no one has a right to fish in the manner provided in ch. 480, laws of 1909, without procuring a license, giving the bond and paying the fee required by that act. Opinion of Atty. General, June 29, 1909, not published.

§ 69. Set-lines in certain waters to take cat-fish or sturgeon. Section 4560d—1; sec. 10, ch. 489, 1905; ch. 525, 1909; ch. 361, 1911; ch. 527, 1911.

1. Set-lines may be used from the twenty-fifth day of May until the succeeding fifteenth day of February in the following named waters: Big Wolf river in Waupaca and Outagamie counties, Lake Winnebago, Lake Butte des Morts, Little Lake Butte des Morts, Lake Winneconne, Lake Poygan, and the rivers connecting said lakes, Fox river.

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Wisconsin river from the north line of Sauk county to its mouth, Black river from the north line of Jackson county to its mouth, the Chippewa river to the dam at Jim Falls, Chippewa county, Wisconsin, the Menominee river bordering on Marinette county, and the Mississippi river, for the purposes of taking catfish or sturgeon, under the following restrictions:

License to be procured from county clerk. 2. Any person who shall desire to place a set-line or set-lines in any of the above described waters, shall first procure from the county clerk of any county bordering on such waters, a license which shall be issued by such county clerk in the same manner as resident hunting licenses are issued, and only one license shall be issued to the same person in any one year.

Metal tags; fees. 3. Each licensee shall procure from the county clerk and attach to each one hundred yards, or fraction thereof, of set-line, a metal tag, but no more than ten such tags shall be issued with each license. The license shall be numbered, and the metal tags issued to any licensee shall be stamped with a number which shall correspond to the number of the license. The applicant shall pay one dollar for such license and twenty-five cents for each metal tag.

Disposition of fees; hunting license fund. 4. County clerks shall pay to the state treasurer ninety cents for each license so issued and twenty-five cents for each metal tag and retain the remaining ten cents as their fees. The moneys received by the state treasurer by virtue of this section shall become a part of the general fund. All licenses issued pursuant to this section shall expire on the fifteenth day of February of each year. No person

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shall assist in setting or taking up a set-line who has not procured a license as herein provided.

Flags. 5. Any person who shall set such line or lines shall maintain at each end thereof a white flag not less than sixteen inches square, and such flag shall be placed at least two feet above the water, and shall be numbered, the numbers to be at least three inches in height and shall correspond with the number of the license by virtue of which such set-line is operated.

Inspection. 6. Any game warden or deputy warden, or any person having the powers of a game warden, under the laws of this state, is authorized to raise at any time, with as little damage as may be, any set-line, to ascertain if set according to the provisions of this section.

Warden to furnish county clerk with blank licenses and tags. 7. The state game warden is hereby authorized and required to furnish the county clerks, upon application, the blanks for licenses and metal tags provided for herein.

§ 70. **Penalty.** Section 4560d—2; sec. 11, ch. 489, 1905. It shall be unlawful to set, place or operate a set-line without first complying in all respects with the provisions of section 10 of this act. Any person who shall violate any provision of section 10 of this act shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine or imprisonment, or both as provided in section 6 of this act and, if he shall have procured a license under section 10 of this act, shall forfeit the same and shall not be granted another license for the term of three years from and after the date of such conviction.

Note—Section 10 above referred to is embodied in section 4560d—1, section 69 of this compilation.

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Section 6 above mentioned is embodied in subsection 4, of section 4560d, given in section 75 of this compilation.

§ 71. White-fish may be taken with gill nets in certain lakes; permits; amount limited; sale prohibited; metal tags. Section 4560a—35; ch. 628, 1907. The state fish and game warden shall grant permits to any person making proper application for the same to use and operate not to exceed one hundred lineal feet of gil net with meshes not less than two and one-half inches stretch measure in the waters of Rice Lake, Cedar Lake, Bear Lake and Long Lake in Barron and Washburn counties for the purpose of catching white-fish from October first to October tenth, inclusive under the following restrictions:

No person shall have any game fish in their possession while operating said nets, or sell, barter or exchange any white-fish taken in said nets or have more than fifty pounds of white-fish in their possession at any one time.

Application for such permits shall state the name and address of applicant, name of the lake where he intends to operate such nets, and shall be accompanied by a fee of twenty-five cents for a metal tag to be furnished by the state game warden, such tag to be securely fastened on gill net when operated under such permit.

Any person violating any provision of this act shall be deemed guilty of a misdemeanor and shall on conviction thereof be fined not less than fifty dollars and not more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail not less than sixty days nor more than ninety days or by both such fine and imprisonment.

All gill nets operated in these waters without permit or metal tag attached are hereby declared public nuisances.

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§ 72. Dip nets to take buffalo-fish, carp, eel-pout, garfish, redhorse and suckers in streams flowing into Lake Michigan; diameter and meshes. Section 4560a—3; ch. 79, 1907; ch. 127, 1911. It shall be unlawful and is hereby prohibited to set, use or operate, a dip net, in any of the inland waters of this state, except in the streams or rivers flowing into Lake Michigan within a distance of ten miles of the shore of said lake, and in the east and west branches of the Fond du Lac river emptying into Lake Winnebago, within three miles of said lake, and in the waters herein enumerated, dip nets not to exceed fourteen feet in diameter with meshes not less than two inches stretch measure, may be used only for the purpose of taking and catching buffalo-fish, carp, eel-pout, garfish, redhorse and suckers.

Game fish to be returned to water. (a) Every person using or operating a dip net under the provisions of this act shall immediately return to the waters from which the same have been taken, all game fish, and if any such person shall be found in possession of game fish, it shall be deemed to be prima facie evidence of a violation of this act.

Penalty. (b) Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than twenty-five dollars nor more than fifty dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which the offense was committed, not less than twenty days nor more than sixty days, or by both such fine and imprisonment in the discretion of the court. Provided that the provisions of this act shall not prohibit the taking of rough fish minnows under the provisions of section 3, chapter 489, laws of 1905.

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§ 73. **Dip nets may be used to take rough fish in Rock and Crawfish rivers.** Section 4560a—6; ch. 347, 1907 and ch. 525, 1909; ch. 30, 1911. It shall be lawful for any person to fish for, take, or catch, rough fish with dip nets not to exceed eight feet in diameter with meshes not less than four inches stretch measure, in the daytime, between sunrise and sunset as hereinafter provided in the Rock river and in the Crawfish river up to bridge No. 4 in the town of Beaver Dam, county of Dodge, from the first day of July in each year until the first day of March following.

Sale or exchange. (a) No person shall take or catch such fish for the purpose of sale, barter, or exchange without first complying with the provisions of section 15, chapter 489, laws of 1905.

Game fish to be returned to water. (b) Every person using or operating a dip net under the provisions of this act, shall immediately return to the water from which the same have been taken, all game fish, and if any such person shall be found in the possession of any such game fish, it shall be deemed to be prima facie evidence of a violation of this act.

Penalty. (c) Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than twenty-five dollars nor more than fifty dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which the offense was committed, not less than twenty days nor more than sixty days, or by both such fine and imprisonment in the discretion of the court.

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§ 74. **Minnow seines and nets; use of in trout streams and in Turtle creek in Walworth and Rock counties.** Section 4560a—38; ch. 612, 1907, and ch. 525, 1909. 1. It shall be unlawful to use a minnow seine more than twenty feet in length or five feet in depth, or a minnow dip net not more than five feet in diameter in any of the inland waters in creeks or streams in which trout have been planted, or in Turtle creek located in Walworth and Rock counties, unless supervised by the state fish and game warden or any of his deputies, for the purpose of taking rough fish minnows for bait, provided that all game fish taken by such nets, shall be immediately returned to the waters where taken. No such bait shall be taken during the closed season for game fish.

2. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars, or by imprisonment in the county jail until such fine is paid, not exceeding thirty days.

§ 75. **Prohibited methods of fishing.** Section 4560d; secs. 3, 4, 5, 6, 7, and 8, ch. 489, 1905; ch. 525, 1909; ch. 151, 1911. 1. Except as otherwise provided by law, it is hereby prohibited and made unlawful to set, place, or use in any of the inland waters of this state:

(1) A net of any kind, except a landing net;

(2) Or to set any trap or snare of any kind which shall be intended to catch, or might catch, take, or kill fish;

(3) Or to take, catch, or kill any game fish by any other method than by angling or trolling with not more than five lines to each person, and with not more than one hook or trolling spoon attached to each line;

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(4) And it shall be unlawful to leave said lines in the water unattended by the user thereof, except as otherwise provided by law;

(5) Or to use a spear for the purpose of taking, catching, or killing any rough fish in the "night time" as the "night time" is defined in section 4637a of the statutes.

(6) Or to use at any one time more than five lines with more than one hook attached to each line for the purpose of taking, catching, or killing fish;

(7) Or to leave said lines in the water unattended by the users thereof;

(8) Or to take or catch rough fish minnows in any of the streams inhabited by trout of any variety;

(9) Or to use a minnow dip net more than four feet in diameter for the purpose of taking rough fish minnows for bait only;

(10) Or to use, set, lay, or prepare in any of the waters of this state any lime, poison, medicated bait, fish-berries, or any substance deleterious to fish life or which might attract fish in unusual numbers.

(11) Or to use a spear in any of the streams inhabited by trout, or in which trout have been planted.

From artificial well. 2. It shall be unlawful and is hereby prohibited to take from any spring-hole or artificial well connected with any of the waters of this state, fish of any kind by any means whatsoever at any time, except when such spring-hole or artificial well forms a part of a private hatchery.

Shutting off water; fishing near dam. 3. It shall be unlawful and is hereby prohibited to take fish by means of shutting or drawing off water for that purpose, or to take fish by any device or in any

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manner, except with a hook and line within two hundred feet of any fishway, lock, or dam.

Penalty. 4. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which the offense was committed, not less than thirty days nor more than ninety days, or by both such fine and imprisonment, in the discretion of the court.

76. Fishing through ice and spearing fish prohibited in certain waters; penalty. Section 4560a—7; ch. 162, 1907; ch. 525, 1909; ch. 112, 1911. 1. It shall be unlawful and is hereby prohibited for any person to fish in any manner, through the ice, on Silver lake, situated within the city limits of Portage, in Columbia county; on Pardeeville mill pond, formed by the Fox river in Columbia county; on Pine lake, town of Hancock, and on Fish lake, towns of Hancock and Deerfield, and millpond in the village of Wautoma, Waushara county; on Lake Nocquebay in Marinette county; on Lake Mason, commonly known as Briggsville pond, situated in the counties of Adams and Marquette; on Shell lake, situated in Washburn county; on Chain of Lakes, situated in townships thirty-seven and thirty-eight north, of range twelve west, in Washburn county, in the Big Slough in L wiston, Columbia county, Wisconsin, before the first day of March, A. D. 1917; or to spear fish in any manner during any season of the year in Lake Mason, commonly known as Briggsville pond, or the inlet, outlet or marshes adjacent to the same, or in the Chain of Lakes, Mirror or Shadow lakes, in the towns of Farmington, Dayton,

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and the city of Waupaca and the town of Waupaca, Waupaca county, Wisconsin.

2. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars, and the costs of prosecution, or by imprisonment in the county jail in the county in which the offense was committed, not less than ten days nor more than thirty days, or by both such fine and imprisonment in the discretion of the court. The possession of a spear on or about the shores of Lake Mason shall be deemed to be prima facie evidence of a violation of this section.

§ 77. **Building enclosure and shelters on ice of lakes; erection or use of, with certain exceptions, forbidden.** Section 4560a—8; ch. 151, 1907; ch. 525, 1909. 1. It shall be unlawful and is hereby prohibited to construct or place upon the ice of the inland waters of this state except Geneva lake in Walworth county, Lake Winnebago, Lake Butte des Morts, Little Lake Butte des Morts, all lakes in Waukesha county, Beaver Dam lake or pond in Dodge county, the Mississippi river, all lakes and streams in the counties of Buffalo, Trempealeau, and La Crosse, the Fox river within Brown county, any building, enclosure, or shelter whatsoever, which might conceal the person of the occupant while engaged in fishing through the ice, or to occupy while engaged in fishing through the ice, any building, enclosure, or shelter whatsoever, which has heretofore been constructed or placed thereon; provided that on the ice of the waters above enumerated, building, enclosures or shelters may be placed and occupied while fishing with hook and line or spearing rough fish; further provided that in the

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buildings or shelters placed on the ice of Lake Geneva in Walworth county, Lake Winnebago, Lake Butte des Morts, Little Lake Butte des Morts, all lakes in Waukesha county, Beaver Dam lake or pond in Dodge county, the Mississippi river, all lakes and streams in the counties of Buffalo, Trempealeau, and La Crosse, the Fox river within Brown county, pickerel and sturgeon may be speared in addition to rough fish.

Buildings declared nuisances; forfeit of. 2. The unlawful use of any building, enclosure, or structure on the ice of any of the inland waters, contrary to the provisions of this act, shall forfeit the same to the state, and all buildings, enclosures or structures placed or used in violation of the provisions of this act are hereby declared public nuisances, and shall be seized and disposed of by any officer authorized to enforce the fish and game laws of the state.

Penalty. 3. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars and the cost of prosecution, or by imprisonment in the county jail in the county in which the offense was committed not less than ten days nor more than thirty days, or by both such fine and imprisonment, in the discretion of the court.

Note—Secs. 18 and 19 of ch. 489, 1905, repealed.

§ 78. Dane county; rough fish may be taken with spear, when; wind shields. Section 4560g—2; ch. 295, 1907; ch. 525, 1909, and ch. 181, 1911. It shall be unlawful to use a spear for the purpose of taking, catching, or killing any rough fish in the daytime in Dane county, except from the first day

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of January in each year to and including the succeeding fifteenth day of April, in lakes and streams in Dane county. Wind shields may be used in Dane county while engaged in fishing through the ice with hook and line.

Note—Chapter 230 laws of 1901, which related to fishing in Dane county is repealed by ch. 525, laws of 1909.

§ 79. Bass of various kinds and other game fish; closed season for in state and different waters. Section 4560a—12; ch. 355, 1907; ch. 525, 1909; ch. 442, 1911. 1. It shall be unlawful and is hereby prohibit d to take, catch or kill in any manner or by any device whatever, any large or small mouth black bass, Oswego bass or yellow bass, in any of the inland waters of this state, between the fifteenth day of March and the first day of June next succeeding, except as hereinafter provided.

2. In Big Green lake, in Green Lake county, the closed season for black bass, Oswego bass and yellow bass shall be from the first day of March to the first day of July next succeeding.

3. In Devils lake in Sauk county the closed season for all fish shall be from the fifteenth day of December to the fifteenth day of June next succeeding.

4. In Mirror lake and Dell creek in Sauk county, the closed season for all game fish shall be from the fifteenth day of December till the fifteenth day of June next succeeding.

5. In Lakes Winnebago, Winneconne, Butte des Morts, Little Lake Butte des Morts, Poygan, and those parts of the Fox and Wolf rivers which connect said lakes, the Big Wolf river up to the dam at Shawano and Fox river, there shall be no closed season, with hook and line except for black bass, Oswego bass, yellow bass and sturgeon, and for the

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above enumerated fish the closed season provided for in the first paragraph of this section shall apply.

6. In all inland waters, except as herein specified, the closed season for game fish, except bass and brook trout of any variety, shall be from the first day of March to the first day of June next succeeding; in Beaver Dam lake or pond, in Dodge county, the closed season for pickerel shall be from the first day of March to the first day of May next succeeding.

Bass; amount of, that may be had in possession at one time; undersized. 7. It shall be unlawful to have over fifteen of any black bass, Oswego bass or yellow bass in possession at any one time or to take or retain any of the above enumerated bass of a length less than ten inches; said undersized bass shall, when so taken, be returned without injury to the waters where taken.

Bullheads, prohibited to take from all waters in Dodge county; closed season, Pecatonica and Fever river and millpond at Wautoma. 8. It shall be unlawful and is hereby prohibited to have in possession or under control in any one day, more than twenty-five pounds of bullheads taken from all waters in Dodge county; there shall be no closed season for any fish in the Pecatonica and Fever rivers. It shall be unlawful to take, catch or kill in any manner or by any device, any variety of fish, excepting carp, from or in the millpond in the village of Wautoma in Waushara county, prior to the first day of January, 1912.

Sale and shipment of game fish; pike and pickerel imported in frozen state; labels on packages. 9. It shall be unlawful and is hereby prohibited to sell, offer for sale or ship or transport any game fish be-

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tween the first day of March and the first day of June, next succeeding; provided, however, that this shall not apply to the possession, sale or shipment within or without this state, of any pike or pickerel in their natural frozen state, imported from any foreign country; and provided, further, that any person, firm or corporation handling pike or pickerel imported from a foreign country, shall keep a separate record of all shipments and consignments of such fish, and such record shall be open for inspection at all times to the state fish and game warden or any of his deputies. The contents of all packages or boxes must be plainly labeled as to what they contain. Provided, that nothing in this act shall be construed as to permit a violation of the conditions provided by section 4560a—5 of the statutes.

Penalty. 10. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than ten or more than fifty dollars and the costs of prosecution, or by imprisonment in the county jail not less than ten nor more than thirty days, or by both such fine and imprisonment.

Fishing with nets in Beaver dam lake prohibited. 11. It shall be unlawful and is hereby prohibited for any person to fish, take, or catch rough fish or game fish of any description by means of or with a net in the Beaver Dam lake or pond, in the county of Dodge, prior to the first day of July, 1913.

Sections 21, 22, 23, and 24, ch. 489, laws of 1905, and sec. 4, of ch. 230 laws of 1901 are repealed by ch. 355, laws of 1907.

§ 80. Trout; closed season; sale and shipment; limit on number that may be had in one day; size

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of, that may be taken; prohibited methods of fishing; penalty. Section 4560a—13; ch. 226, 1907; ch. 525, 1909, and ch. 659, 1911. It is hereby prohibited and made unlawful:

(a) To fish for, catch, or kill in any of the inland waters of this state, with any device or in any manner any variety of trout between September 1st and the succeeding 15th day of April;

(b) To ship trout of any variety without accompanying the shipment;

(c) To sell, offer for sale, or barter any variety of brook trout;

(d) To have in possession or under control any variety of trout during the closed season;

(e) To have more than forty-five trout which were caught in any of the inland waters of this state in possession or under control during any one day during the open season;

(f) To fish for or by any device attempt to kill any variety of fish in any of the streams of this state (except navigable rivers), which contain trout of any variety, during the closed season specified herein for trout;

(g) To take or have in possession or under control trout of any variety, less than six inches in length; trout so taken to be immediately returned, without injury, to the water where taken; the provisions of this act shall not apply to lake trout and the trout raised and caught in private hatcheries.

(h) Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars, and the cost of prosecution, or by imprisonment in the county jail in the county in which the offense was committed not less than ten days nor more than twenty days.

Note—Section 4560c of the statutes is repealed.

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§ 81. Pike, fiddler catfish, black bass; minimum weight and length of, that may be taken. Section 4560a—5; ch. 382, 1907. Any person who shall take, catch or kill or have in his possession, pike of any variety of less than one pound, round or undressed weight, any fiddler catfish of less than one and one-half pounds, round or undressed weight, or less than one pound dressed weight, or any black bass of a length less than ten inches, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail not more than sixty days, or by both such fine and imprisonment in the discretion of the court.

Note—See also sec. 4560a—50 of the statutes, sec. 98 of this compilation, respecting size of pike and pickerel that may be taken.

§ 82. Muskellunge and strugeon; weight limit. Section 4561a; sec. 21, ch. 437, 1903. The taking, catching or killing of any muskellunge of less weight than four pounds round weight, or two pounds dressed weight, or of any sturgeon of less than eight pounds round weight, or four pounds dressed weight, is hereby prohibited. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five dollars.

§ 83. Fishing prohibited on Little Bass lake. Ch. 93, laws of 1905. 1. For five years from and after the passage of this act, it shall be unlawful for any person, excepting an agent of the commissioners of fisheries of Wisconsin, to catch fish by any means whatsoever from Little Bass lake, located in sections 7, 8, 17 and 18 in township 39, range 7 east, Vilas county, Wisconsin, and partially bounded on

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the north and west by lands belonging to the state of Wisconsin and used for the purposes of a fish hatchery.

2. On or before May 25th, 1905, the commissioners of fisheries shall post conspicuously, at intervals of not less than forty rods along the entire shore line of said lake, printed signs not less than eighteen inches square, which shall read as follows. "Fishing on this lake prohibited by Sec. 1, Chapter 93, Laws of 1905."

3. Any person who shall violate any of the provisions of this act shall be punished by a fine of not less than twenty-five dollars for each offense.

§ 84. **Transportation of fish.** Section 4565k; sec. 22, ch. 358, 1901; sec. 20, ch. 437, 1903, and ch. 525, 1909. It shall be unlawful for any person company, or corporation to offer for transportation or to transport to any point within or without this state any fish taken from the inland waters of this state, except as hereinafter provided.

Twenty pounds may be shipped during any seven days; two fish of any weight. (a) If marked as provided by law, one package and no more, containing not more than twenty pounds of fish, except lake trout or in lieu thereof not more than two fish of any weight, may be transported to any point within or without this state by any person, provided that not more than one such shipment shall be made during any seven days by the same person.

More than twenty pounds when accompanied by shipper; shipment out of state unlawful; pike taken from outlying waters. (b) Any package or shipment containing more than twenty pounds of fish, except lake trout taken from inland waters of this state may be transported to any point within this

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state, provided that shipments be marked as provided by law and that the shipments accompanied by the shipper from point of shipment to place of destination. Shipments to points without this state are hereby made unlawful. And provided further that pike taken from the outlying waters in this state may be transported in any quantity from any outlying water point within the jurisdiction of this state, to points within this state without being accompanied by the shipper, at any time, except during the closed season for taking such fish from inland waters; such shipments to points without the state are hereby prohibited, except as provided in paragraph "a" of this section.

Fish enumerated to which this section does not apply. (c) The provisions of this section shall not apply to shipments of chubs, dace, suckers, carp, redhorse, sheepshead, dogfish, garfish catfish, buffalo, and bullheads, provided that shipments of such fish must be marked according to law.

Lake trout, shipment of. (d) Shipments of lake trout not to exceed twenty pounds in weight, taken from the inland waters of this state may be made to points within or without this state, when accompanied by the shipper, provided that not more than one such shipment shall be made during any seven days by the same person.

Penalty. (e) Any person, company, or corporation that shall violate any of the provisions of this section shall forfeit to the state of Wisconsin a sum not less than twenty-five dollars nor more than one hundred dollars in the discretion of the court. Any shipments made in violation of the provisions of this section may be seized, confiscated, and sold by

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any game warden of this state in a manner provided by law.

See State v. Nergard, 124 Wis. 414.

§ 85. **Shipments to which law regulating shipments from inland waters applies.** Section 45651; sec. 23, ch. 358, 1901. Any package containing fish offered for shipment or transportation by any person, company or corporation or received for transportation by any person, company or corporation at any point in this state not situated on any waters designated by the statutes of this state as outlying waters, shall come under the provisions of law pertaining to the shipment of fish taken from the inland waters of this state. And any person, company or corporation offering for transportation any package in violation of this act shall on conviction thereof be punished by a fine of not less than twenty-five dollars nor more than on hundred dollars, or by imprisonment in the county jail not less than one month nor more than four months. Any shipment made in violation of this act may be seized, confiscated and sold by any warden as provided by law.

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CHAPTER VII.

Provisions Relating to Outlying Waters.

1. Lakes Superior and Michigan, Green Bay and Fox River to Dam at Depere; License to Take Fish with Nets, Seines or set Hooks.
2. Fox River and Certain Waters of Green Bay; Set-lines.
3. Mississippi River, Lakes Pepin and St. Croix; License for Nets.
4. Lake Superior, Chequamegon Bay, and Douglas County; Gill Nets and Other Nets.
5. Lake Michigan, Gill Nets; Devices.
6. Green Bay and Fox River below Dam at Depere; Nets, Set-lines.
7. Sturgeon Bay, Little Sturgeon Bay and Detroit Harbor; Nets and Trapping Devices.
8. Pike, Sale and Transportation.
9. Prohibited Methods of Fishing.
10. Size of Fish that May be Taken.
11. Reports of Fishermen.

§ 86. Lakes Superior and Michigan, Green Bay and Fox River below dam at Depere; license to take fish with nets, seines or set hooks. Section 4560a—40; ch. 357, 1909; ch. 33, 1911. 1. It shall be unlawful and it is prohibited for any person or persons, firm or corporation to set or use nets or seines or set hooks for catching fish, or to catch fish of any kind, except as otherwise provided by law, in the waters of Lake Superior, Lake Michigan, Green Bay and the Fox river below the dam at Depere without first having procured a license from the state fish and game warden as provided herein.

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License fee for different nets. 2. The license fee therefore shall be as follows: For using a gill net or nets, two dollars; for using a pound net or nets, two dollars; for using a fyke net or nets, one dollar; for using a drop net or nets, one dollar; for using a seine, one dollar; for using a trammel net, one dollar; for using a trap net or nets, one dollar; and for set hooks, one dollar.

Non-residents; license fee for gill nets used in conjunction with boats; corporations when non-residents. 3. Non-residents of this state using gill nets in conjunction with or operated from boats, for catching fish of any kind in the above named waters, shall pay a license fee of one hundred dollars a year for gill net used in conjunction with or operated from a steam tug, steam boat or steam launch, without a steam lifter; a license fee of two hundred dollars a year for gill net used in conjunction with or operated from a steam tug, steam boat, or steam launch or other boat with steam lifter; a license fee of fifty dollars a year for gill net used in conjunction with or operated from any other boat, launch or tug propelled with any power including sail boats, except row boats. For the purposes of this act any firm, company, association or corporation in which less than fifty-one per cent. of the stock is owned by residents of this state shall be considered non-residents.

Application; what to contain. 4. Any person, firm, company, association or corporation, desiring a license under the provisions of this act, shall make application therefor, an oath, to the state fish and game warden, on blanks provided by the state fish and game warden, accompanied by the fee herein provided. Such application shall state, the name and residence of the applicant, the name and kind

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of tug, launch or boat, and whether the same is to be used with or without a steam lifter, and the number and kinds of nets or set hooks or set lines intended to be licensed.

License; what to contain. 5. Upon the payment of the fee provided for in this act, the state fish and game warden shall issue to persons, firms, or corporations entitled to the same, a printed or written license signed by him setting forth the date of issuing the same, to whom issued, the date on which it will expire, and the name and kind of boat, tug, or launch, and the kind of net, set-hook or set line for which said license was issued, except that no license, or permit, shall be granted to any person, firm or corporation to fish in the waters bordering on Door county with fyke or hoop net.

Sec. 2. All acts and parts of acts conflicting with any of the provisions of this act are repealed in so far as they are inconsistent therewith.

Expiration of licenses; record; money to be credited to general fund. 6. All boat, net and hook licenses shall expire on the first day of January following their issue. The state fish and game warden shall keep a record of all applications and licenses. On the first day of each month, the state fish and game warden shall pay to the state treasurer all moneys received by him under the provisions of this section, and said moneys shall be credited to the general fund and be disbursed in accordance with the law for the enforcement of the statutes regulating and protecting fish and game.

Licenses to be kept in possession of licensee and exhibited to warden on request. 7. Every person, association, firm, company or corporation, to whom a license is issued as provided in this act, shall, on

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demand of the state fish and game warden or any of his deputies, exhibit for the inspection of such warden or deputy any and all licenses to fish issued to such person, association, firm, company or corporation; and such licenses shall at all times be in possession of the person, association, firm, company or corporation or their agent, when nets or hooks are being set or drawn or raised by authority of such license.

Report by licensee; contents of report; when to be made. 8. It shall be the duty of each applicant to whom a license is issued, as provided in this act, to make, on or before January 10th following the expiration of his license, a written report to the state fish and game warden on blanks furnished by said state warden, stating the kind, number and size of nets, set-hooks and set-lines used by him, the kind and number of the license held, the number of pounds of each kind of fish caught with each kind of net or set hook or set line used, and the value of each kind of fish caught during the period covered by such report, and such other information as may be required on the blanks furnished.

Methods of fishing prohibited otherwise by law not authorized by this section. 9. Nothing contained in this act shall be deemed as authorizing the taking of fish, or the use of illegal nets, or the setting of nets, at a place or places or times otherwise forbidden by law.

Penalties. 10. Any person, firm, company, association or corporation who or which violates any of the provisions of this act, or who or which fail to make the report provided for in this act, or who or which makes a false r port, shall be deemed guilty of a misdemeanor, and upon conviction thereof

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shall be punished by a fine of not more than fifty dollars and costs of prosecution, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment in the discretion of the court; and upon conviction of a second or any subsequent offense under this act the license of the person thus convicted shall be revoked and said licensee shall not be granted another license to fish for a period of one year thereafter.

Note—Section 4560a—40, as created by chapter 628, laws of 1907, is repealed by chapter 102, laws 1909.

§ 87. **Fox River from dam at Depere and certain described waters of Green Bay; use of set lines and nets prohibited, when.** Section 4560a—1, ch. 257, laws 1907. It shall be unlawful and is hereby prohibited for any person to set, place or use, (a) set lines, or a net or nets of any kind, in the waters of Green Bay and Fox river, from the dam across Fox river at De Pere, to a line drawn in a southeasterly direction from the mouth of the Big Suamico river to Point Au Sauble in Brown county, from the 1st day of April in each year to the 15th day of May following.

Note—The foregoing portion of this section is repealed by implication by section 4560a—44, ch. 531 laws of 1909 (Section 92 of this compilation) and the latter section controls as to fishing in Green Bay and the Fox river below the dam at Depere.

Manitowoc River within city limits of Manitowoc; set-lines and nets prohibited, when. (b) Set-lines, or nets of any kind, except dip nets not more than fourteen feet in diameter, with meshes not less than four inche stretch measure, in the waters of Manitowoc river, within the city limits of Manitowoc,

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from the first of March to the first of November following:

Game fish to be returned to water. (c) Every person using or operating nets of any kind under the provisions of this section, shall immediately return to the waters from which the same have been taken, all game fish, and if any such person shall be found in possession of game fish it shall be deemed prima facie evidence of a violation of this act.

Penalty. (d) Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not less than twenty-five dollars nor more than fifty dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which the offense was committed, not less than twenty days nor more than sixty days, or by both fine and imprisonment in the discretion of the court. Provided, that the provisions of this act shall not prohibit the taking of rough fish minnows under the provisions of section 28, chapter 489, laws of 1905.

Note—Sec. 28, ch. 489, laws of 1905, is repealed by ch. 471, Laws 1907.

§ 88. **Mississippi River, Lakes Pepin and St. Croix; licenses; certain waters excepted.** Section 4560a—10; ch. 130, 1907; ch. 525, 1909, ch. 276, 1911, and ch. 527, 1911. (a) It shall be unlawful and is hereby prohibited to take, from the waters of the Mississippi river, Lake Pepin, or Lake St. Croix, any fish by any other method than by angling or trolling with hook and line, or by licensed set lines, or for the purpose of propagation when taken by the superintendent of hatcheries or his duly authorized agents, or taking rough fish by the aid of

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spears without first having complied with all the requirements of this act, but it shall be lawful for residents to take, catch or kill, from the waters of the Mississippi river, Lake Pepin or Lake St. Croix any fish at any time between the first day of May and the first day of March following without license by angling or trolling with hook and line.

Sec. 2. All acts and parts of acts conflicting with any of the provisions of this act are repealed in so far as they are inconsistent therewith.

(b) The state fish and game warden shall, upon application therefor, issue to any person a license to set, use or operate seines, pound nets, or hoop, gill nets of not less than three and one-half bar, bait nets, without leads, with four foot hoop front, turtle nets of three and one-half inch bar, in that part of the St. Croix river known as Lake St. Croix and that part of the Mississippi river known as Lake Pepin and the Mississippi river, and the lakes, bays, bayous, and sloughs tributary thereto and connected therewith, except Rice lake, French lake, Mud lake, Round lake, French slough in La Crosse county, Courtois pond and Frenchtown slough in Crawford county, and Cassville slough from Glen Haven to Cassville, and Bertram lake in Grant county at any time, and Beef slough in Buffalo county, between the 15th day of April and the 15th day of November, and the Mississippi River within 1500 feet of the mouth of the Chippewa river at any time, for the purpose of catching and taking all fish, except pike, of any variety, bass, or croppies.

Nets, how to be used and operated; what fish to be returned to water. (c) Such nets shall not be set, used, or operated except in the manner hereinafter provided, and then only in compliance with such rules and regulations as are or may hereafter be prescribed by law.

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(d) Every licensee shall immediately return to the waters from which the same shall have been taken all fish above enumerated in subdivision "b" of this act, when taken in any net used by him or under his supervision and control, and the possession of such fish by said licensee shall be deemed to be prima facie evidence of a violation of this act.

Expiration of license; fee. (e) Licenses issued under the provisions of this act shall expire on the first day of April next succeeding the date of their issuance and shall not be transferable. Any person who shall desire to set, use or operate a net or nets under the provisions of this act, shall make application to the state fish and game warden therefor upon blanks to be furnished by the game warden department and shall accompany such application with a fee of five dollars for each two thousand lineal feet or fraction thereof, and five dollars for each seven hundred lineal feet of pound leaders or fraction thereof with one pound, and for each additional pound shall pay an additional fee of five dollars. Five dollars for each five hundred feet of seine or fraction thereof or for each fyke or hoop net and one dollar for each bait or turtle net.

Bond to be executed or cash deposit made. (f) Before any such license shall be issued the applicant shall execute and deliver to the state fish and game warden a bond running to the state of Wisconsin in the penal sum of two hundred dollars with two sureties who shall each justify in the sum of two hundred dollars in property in this state over and above all debts and liabilities and property exempt by law from sale on execution. In lieu of such bond said licensee may make a cash deposit of two hundred dollars or provide the bond of any surety company authorized to do business in this state;

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such bond shall be conditioned that if the applicant shall well and faithfully observe and comply with all the requirements of this act and the rules and regulations which are or may be hereafter prescribed by law, such obligations to be null and void, otherwise to remain in full force and effect.

Record of licenses; money to go into general fund. (g) The state fish and game warden shall keep in his office a complete record of all licenses issued under this act and all moneys received for the same shall be paid to the state treasurer and become a part of the general fund.

Temporary fish ponds. (h) Licensees operating nets under the provisions of this act are hereby permitted to construct temporary fish ponds for the purpose of keeping fish therein until the same can be marketed, provided that fish so taken may be shipped to points within or without the state at any time and in any quantity.

Penalty. (i) Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and shall upon conviction thereof forfeit his bond and be punished by a fine of not less than fifty dollars nor more than one hundred dollars and the costs of prosecution or by imprisonment in the county jail of the county in which the offense was committed not less than sixty days nor more than ninety days or by both such fine and imprisonment in the discretion of the court. The license of any person convicted of any violation of the provisions of this act shall be forfeited and such convicted person shall not be entitled to another license for the period of one year from and after the date of such conviction.

Note—Section 12, ch. 489, L. 1905, and ch. 466, L. 1905, are repealed.

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Note—Chapter 428, laws 1909, creates sections 1498v and 1498w of the statutes. Section 1498v requires the commissioner of fisheries to remove small fish and minnows from land-locked sloughs, bays, lakes and bayous adjacent to the Mississippi river and distribute them in other waters of the state. Section 1498w provides that: "All moneys received from licenses of all kinds for fishing on the Mississippi river, and Lakes Pepin and St. Croix shall be set apart and constitute a special fund, and shall be used exclusively for the purpose of carrying out the provisions of this act."

Note—Persons who fish with nets upon the Wisconsin side of the main channel of the Mississippi river are necessarily required to obtain a license to fish from the Wisconsin authorities, and to fish on the Minnesota side of the main channel must conform to the Minnesota laws.

Opinion, Atty. General, Jan. 27, 1909.

§ 89. Lake Superior; use of gill nets, seines and pound nets. Section 4560a—42; ch. 531, 1909. It shall be unlawful and is hereby prohibited for any person, persons, firm, company or corporation, to set, cause to be set, placed or used in the waters of Lake Superior:

1. A gill net having meshes less than three and one half inches; provided that gill nets having meshes not less than two and three eighths inches, stretch measure, may be set in said waters during the months of October, November, and December, solely for the purpose of catching herring.

2. Within one mile of the main shore thereof a gill net or nets having meshes less than four and one quarter inches stretch measure, or a seine or any pound net or nets having meshes less than four inches stretch measure, in the pot or crib thereof, between July 10 and the following 15th day of September, or to use any pound net or seine having meshes less than two inches stretch measure in the pot or crib thereof at any time.

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§ 90. Chequamegon Bay and Lake Superior as described; use of nets. 3. In that part of Chequamegon Bay and Lake Superior included within the following described boundary lines, to wit; Beginning at Houghton stone quarry, Bayfield County, from thence following the shore line of Chequamegon Bay, South and East to a point where the section line between sections two and three in township forty-eight North of Range three West, Ashland county, intersects the shore line, thence North on a straight line to Long Island, thence along the South and West shores of Long Island to the extreme Northwest point of said island, thence Southwesterly in a straight line to the point of beginning; a net of any kind, except a gill net or nets or nets having meshes not less than four and one quarter inches, stretch measure, may be used between the first day of January and the first day of May following; and provided that gill nets with meshes not less than two and three eighths inches, stretch measure, and pound n ts with meshes not less than two inches, stretch measure, in the pot or crib thereof, and seines may be used in the above bounded waters during the months of November and December for the purposes of taking herring and other fish, except lake trout, whitefish, pike and bass.

4. A net of any kind, except as otherwise provided by law, from October 1 to November 1, inclusive, in any year; provided, however, if any person, persons, firm, company or corporation shall have set in such waters nets which, owing to stress of weather, such person, persons, firm, company or corporation, shall be unable to raise or bring in on said date, three days of grace thereafter shall be allowed for the purpose of raising and bringing in such nets and the fish caught therein.

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Douglas county; nets. 5. Within the boundary of Douglas county, Wisconsin.

(a) A net or nets of any kind in water less than ten feet in depth or within six hundred feet of the shore or within one thousand fe t of any pier, harbor, entrance or river mouth.

(b) Within one mile of the main shore a pound net having meshes less than three and one half inches, stretch measure, excepting pound nets having meshes not less than two and three eighths inches, stretch m asure, may be used during the months of November and December in any year for catching herring.

§ 91. **Lake Michigan; nets; devices for trapping fish.** Section 4560a—43; ch. 531, 1909. 1. It shall be unlawful and is hereby prohibited for any person, persons, firm, company or corporation to set or use or place or cause to be set or used or placed in the waters of Lake Michigan,

(a) A gill net having meshes less than four inches, stretch measure, in less than forty fathoms of water.

(b) A gill net or nets having meshes less than four inches; provided, however, gill nets having meshes two and three quarters inches and gill nets having meshes three and one half inches, may be set in forty fathoms of water or over. Provided, however, that gill nets having less than four inches stretch measurement may be used for the purpose of taking or catching rough fish in less than forty fathoms of water during the open season. Any person, persons, firm or corporation fishing in less than forty fathoms of water shall not have any under-sized lake trout or whitefish in his or their possession. That any person, persons, firm, or corporation having in his or their possession any under-sized lake trout and whitefish while fishing for rough

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fish shall be prima facie evidence of violation of this section.

(c) A net of any kind or other device for trapping fish within one third of a mile of any harbor, pier or breakwater, on the shores of Lake Michigan.

2. All fish taken in gill nets (excepting as otherwise provided for whitefish and pike,) set and used as specified in the preceding section of this act, shall be deemed of legal size and may lawfully be possessed, sold and transported.

§ 92. Green Bay and Fox River below dam at Depere; nets; set line; set hooks. Section 4560a—44; ch. 531, 1909. 1. It shall be unlawful and is hereby prohibited for any person, persons, firm, company or corporation to set or cause to be set, placed or used in the waters of Green Bay and Fox river below the dam at De Pere.

(a) A gill net having meshes less than three and one half inches for lake trout and whitefish; provided, however, that gill nets having meshes not less than two and three eights inches may be used during the open season for perch and other rough fish.

(b) Any net, set line or set hook of any kind from April 1st, to May 10th in any year; excepting gill nets having meshes not less than four inches, stretch measure, may be used for the purpose of catching lake trout and whitefish, and pound nets having meshes not less than two inches in the pot or crib thereof may be used to catch herring only, during the closed season above specified.

2. It shall be unlawful to possess on the waters of Green Bay or the Fox river below the dam at De Pere or on the land bordering said waters, or to ship from any port on said waters, any green fish of any kind, except lake trout, whitefish and herring, from April 1st to May 10th in any year.

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§ 93. Same, continued; certain nets purchased prior to January 1st, 1909, may be used until October 1, 1910; closed season. Section 4560a—45; ch. 531, 1909; ch. 296, 1911. 1. It shall be unlawful and is hereby prohibited for any person, persons, firm, company or corporation to set or use or place or cause to be set or used or placed in the waters of Lake Michigan and Green Bay and the Fox river below the dam at Depere.

(a) A net, set line or set hook of any kind, excepting as otherwise provided by law during the period from November 1st to December 1st in any year, which period shall be known as the closed season on said waters; provided, if on the 1st day of November in any year, any person shall have set in such waters, nets or set lines which, owing to stress of weather, such person, persons, firm, company or corporation shall be unable to raise or bring in on said date, three days grace thereafter shall be allowed for the purposes of raising and bringing in such nets or set lines and the fish caught therein or thereon. Subdivision (a) shall not apply to Green Bay and the Fox river, below the dam at Depere, only for lake trout and whitefish.

(b) A pound net having meshes less than three and one half inches, stretch measure, in the pot or crib thereof; provided that pound nets having meshes not less than two inches, stretch measure, may be used for the purpose of taking herring and other fish, except bass, if set on perch and herring grounds.

2. Any person, persons, firm, company or corporation who or which shall own, at the time this act is passed, gill nets having meshes less than two and three quarters inches, but not less than two inches, which were purchased prior to January 1st, 1909, are hereby authorized to use such nets in Lake Michigan, Lake Superior and Green Bay, until Oc-

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tober 15th, 1910, subject to all the restrictions herein provided for gill nets having meshes two and three-quarters inches. Provided, however, that persons owning such small meshed nets shall furnish the state fish and game warden on or before July 1st, 1909, a sworn statement showing the number of feet of such gill nets on hand, the sizes of the meshes in said nets, the kinds of fish for which such nets will be set; and stating approximately the length of time such nets have been in use.

§ 94. Sturgeon Bay, Detroit Harbor and Little Sturgeon Bay; nets and devices for trapping fish. Section 4560a—46; ch. 531, 1909; ch. 40, 1911; ch. 41, 1911. It shall be unlawful and is hereby prohibited to set or cause to be set or used a net of any kind or other devic for trapping fish in any of the following named waters:

1. The waters of Sturgeon Bay, to-wit: That portion of said bay lying south of a straight line running easterly fr m Sherwood point light house to a point where the south line of lot 1 in section 19, township 28 north, of range 26 east, intersects the meandered line of Sturgeon Bay in Door county, including also the waters of Sawyer Harbor.

Sec. 2. All acts or parts of acts conflicting with any of the provisions of this act are repealed in so far as they are inconsistent therewith.

2. The waters of Detro't Harbor, to-wit: that portion of said harbor lying north and west of a straight l'ne running in an easterly direction from the extreme southern point of lot 3 in section 14, township 33 north, of range 29 east, to the most southerly point of lot 2 in s ction 18, township 33 north, of range 30 east in Door county.

3. The waters of Little Sturgeon Bay south of a straight line drawn from Horse Shoe or Squaw Island to Bonnet's Point on the main land.

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4. The waters of Rowley's bay and Mink river, to-wit: That portion of said bay and river lying north and west of a straight line running easterly from the point where the section lines between section numb r 25 and section 36, township 32, range 28 east, intersects the meandered line of Rowley's bay to the point where the section line between section 29 and section 32, township 32, range 29 east, intersects the meandered line of Rowley's bay.

§ 95. Pike taken from Lakes Superior and Michigan, Green Bay and Fox River below dam at Depere; transportation of. Section 4560a—47; ch. 531, 1909. From May 10th in each year until March 1st of the year following it shall be lawful to have in possession, to sell or transport to points within and without this state, pike which have been lawfully taken from the waters of Lake Superior, Lake Michigan, Green Bay and the Fox river below the dam at Depere, without restrictions as to the number of pounds possessed, sold or transported. Provided that such shipments be billed from a port on said waters directly to their destination, and shall not be rebilled or re-shipped from any other point within this state.

§ 96. Prohibited methods of fishing in outlying waters. Section 4560a—48, ch. 531, 1909; ch. 573, 1911. 1. It is unlawful and is hereby prohibited in the outlying waters of this state,

(a) To use in the pot or crib of a pound net any apron or other device which would prevent small fish escaping through the meshes of the net when it is set or raised.

(b) To set or use any fyke net having meshes less than two and one-fourth inches, stretch measure, in the pot or tail thereof, or any seine having meshes less than thre inches, str tch measure, except a minnow seine for bait.

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Possession of undersized whitefish; penalty. (c) For any person, persons, firm, company or corporation to have in his or their possession more than five pounds of under-sized whitefish for each pound net and fifteen pounds of any under-sized lake trout for each pound net. No person, persons, firm, company or corporation shall have in his or their possession in any one day any more than the above amount, whitefish of less than two pounds dressed, or undressed one and one-half pounds, or to sell, offer for sale or transport any under-sized whitefish. Any person, persons, firm, company or corporation, having in any one day any more than the specified amount of whitefish or under-sized lake trout shall be fined not less than fifty dollars, nor more than one hundred dollars, or by imprisonment not less than sixty, nor more than ninety days in jail. Sub. (c) shall apply only to pound net fishermen.

Bass and perch; minnows and bloaters for bait. (d) To take from said waters bass of any kind by means of nets; or to take, kill or retain any rough fish less than seven inches in length except rough fish minnows or bloaters for bait.

Use of gill nets to take bloaters for bait; whitefish and trout, sale of. 2. It shall be lawful to use in the outlying waters of this state not exceeding one thousand lineal feet of gill net having meshes from one and one-half to one and three-quarters inches, stretch measure, for the purpose of taking bloaters for bait for set hooks. Provided, however, that any person, persons, firm, company or corporation, who or which shall use or fish with a bait net shall not sell, offer for sale or have any whitefish less than two pounds round or one and one-half pounds dressed or any lake trout less than fourteen inches in length.

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Inspection; officers to be carried on boats. 3 All persons, firms, companies, and corporations operating net or set lines in the outlying waters within the jurisdiction of the state are hereby required to carry any officer or officers, authorized to enforce the fish and game laws, on their boats to and from their nets and shall raise same for his or their inspection upon demand made by such officer or officers.

Rough fish; black bass and pike; taking of. 4. Nothing in this act shall be construed to prohibit the taking of rough fish with a minnow dip net, or a minnow seine not more than fifty feet in length or five feet in depth; or to prohibit the taking of fish from said waters at any time, by angling or trolling, except black bass and pike shall not be taken or caught during the closed season prescribed for the taking of such fish from inland water.

§ 97. Penalty for violating preceding sections. Section 4560a—49; ch. 531, 1909. Any person, persons, firm, company or corporation violating any of the provisions of the preceding sections of this act shall be deem d guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred fifty dollars for the first offense and not less than one hundred dollars nor more than two hundred and fifty dollars for a second offense, or by imprisonment for not less than thirty days nor more than six months or by both such fine and imprisonment.

§ 98. Pike, pickerel, bass, catfish, and crappie: size of which may be taken. Section 4560a—50; ch. 531, 1909; ch. 250, 1911. 1. It shall be unlawful and is hereby prohibited in this state,

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(a) For any person, persons, firm, company or corporation to take, catch or kill or have in his or their possession pike or pickerel of any variety of less than twelve inches in length, or any catfish of any kind of less than one and one-half pounds round or undressed weight, or less than one pound dressed weight, or any black bass, yellow bass, green bass or Oswego bass of a length less than ten inches, or any white bass or crappie less than seven inches long. For the purpose of enforcing the laws in which is specified the length of fish which may be had in possession, sold or transported, to determine the length of such fish, measurement shall be taken from the tip of the nose to the tip of the tail and this shall be the rule for measurement in all such cases.

(b) For any person, persons, firm, company or corporation to have whitefish of less weight than two pounds round or undressed or one and one-half pounds dressed, or to sell, offer for sale, or transport any under-sized whitefish.

2. Any person, persons, firms, company or corporation who or which violates any of the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars or by imprisonment in the county jail not less than sixty days nor more than six months or by both such fine and imprisonment in the discretion of the court.

§ 90. Lake trout; size and amount of, that may be had in possession, sold and transported. Section 4560a—27. a. ch. 471, 1907; ch. 531, 1909. Subsection "a" of section 4560a—27 of the statutes is amended to read: Section 4560a—27. a. To have in his or their possession or to sell, offer for sale, or transport, in any one day, more than one hundred

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pounds of under-sized lake trout, to-wit: lake trout of less than fourteen inches in length. The above provisions shall apply to pound net fishermen only.

§ 100. Provision of chapter 531, 1909, relating to size of meshes, in effect October 15, 1910; other provision after passage of act. Section 4; ch. 531, 1909. This act shall take effect and be in force from and after its passage and publication, except the provisions hereof wh'ch relate to the size of the meshes of nets shall take effect and be in force from and after October 15th, 1910.

§ 101. Statutes repealed by ch. 531, 1909. Section 3; ch. 531, 1909. Sections 4560a—5 and 4565k and sections 4560a—25, to 4560a—32, inclusive, of the other acts are so far as they conflict herewith, repealed.

Note—Section 4565k is amended by ch. 525, 1909. See section 84 of this compilation. See also sections 81 and 79 (sub. g) of this compilation.

Note—Sections 9, 27, 28, 29, 30, 31 and 33, ch. 489, laws of 1905; ch. 403, laws of 1905, section 4561 of the statutes and section 19, ch. 437, laws of 1903, are repealed by ch. 471, laws 1907.

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CHAPTER VIII.

Transportation of Fish and Game.

1. Marking of Packages.
2. By Residents and Non-residents.
3. From Other States.
4. During Close Season.
5. Warden's Right to Inspect.
6. Wardens of Other States; Authority of.
7. Lacey Act.

§ 103. Label on Packages, what to contain; penalty; packages containing fish, how to be constructed. Section 4560a—36; ch. 611, 1907. It is hereby required that any and all packages containing fish or game shall b labeled in plain letters on the address side of the p ckage so as to disclose the name and address of the shipper and the name and address of the person to whom shipped, the number of pounds of each kind of fish and the number of each variety of game animals, or birds contained therein, and the shipper shall give a signed statement to the receiving agent or common carrier stating that he or she is the person or consignor of said shipment.

Any person who shall deliver to a common carrier for transportation, any package or parcel containing fish or game, which said package or parcel shall not be so labeled as herein required, or who shall place upon said package or parcel, a false statement as to the contents thereof, or who shall fail to give a statement to the receiving agent as hereinbefore

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provided, shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars or by imprisonment in the county jail not less than thirty days nor more than ninety days, or by both such fine and imprisonment. Any shipment made or had in possession in violation of this act may be seized, confiscated and sold by any warden as provided by law.

All packages or parcels used for shipping fish shall be so constructed that the same may be easily opened for insp ction, otherwise the state fish and game warden or any of his deputies shall be authorized to open same in anyway so as to inspect the contents and shall not be h ld liable for damages.

Note—As to attaching coupons and transportation of carcasses of deer, see ch. 525, 1909, sections 27 and 30 of this compilation. Sections 20 and 21 of chapter 312 of laws of 1899, relating to the endorsements on packages of game and penalties for transporting game without marking the same are repealed by chapter 611, L. 1907, (above sec.), although section 20 had previously been amended by section 17, ch. 358, L. 1901, and the latter section was not expressly repealed.

§ 104. **Common carrier; penalty.** Section 4560a—37; ch. 611, 1907. It shall be unlawful and is hereby prohibited for any common carrier or agent, servant or employee of a common carrier, to receive for transportation or to transport any package or parcel containing fish or game unless the same shall be labeled as provided in section 4560a—36 of this act or to receive a shipment without taking a signed statement from the shipper that said person is the consignor of such shipment. Any person, firm or corporation violating the provisions of this section shall be required to forfeit to the state of Wisconsin a sum not less than twenty-five dollars nor more

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than one hundred dollars in the discretion of the court.

Note—Section 16, chapter 358, laws of 1901, and sections 20 and 21, chapter 312, laws of 1899, are repealed by chapter 611, 1907.

§ 105. Resident; shipment by, of birds or animals must be carried as baggage or express, or in personal possession of owner; confiscation; penalty. Section 4566e; sec. 18, ch. 312, 1899; sec. 13, ch. 358, 1901; ch. 51, 1911. It is unlawful and is prohibited for any person a resident of this state to ship within this state any birds, fowls or animals protected by the laws of this state except when the same shall be in the personal possession of or carried as baggage or express by the owner thereof, and such owner shall have in his possession a resident license duly issued to him under the provisions of law, and shall accompany the said birds, fowls or animals on the same train or other conveyance; provided, that there shall be only one shipment each day by any one person and that the number of birds or animals carried at any one shipment shall not exceed twenty altogether, and also provided that this section shall not apply to any game except wood cock, partridge, pheasant, prairie chicken or prairie hen, grouse of any variety, plover of any variety, and also provided that the number of snipe of any variety and aquatic fowl that may be transported under this section shall not exceed fifty. All game shipped or had in possession in violation of this act may be seized, confiscated and sold by any warden as provided by law. Any person who shall violate any of the provisions of this section shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than sixty days nor more than six

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months or by both such fine and imprisonment in the discretion of the court.

§ 106. **Non-resident; transportation of animals by; duty of common carrier.** Section 4556d; sec. 17, ch. 312, 1899. It is unlawful and is prohibited for any person holding a non-resident license as herein described to take out of the state more than fifty birds, fowls or animals, protected by the laws of this state, in any one year. Provided, that this section shall be construed to mean that when fifty birds, fowls or animals of any kind or variety have been taken from the state by holder of non-resident license further right to take any kind of birds, fowls or animals by the holder of the said license shall cease. No transportation company or common carrier shall receive for transportation or shipment out of the state any birds, fowls or animals protected by the laws of the state, except when the same shall be in the personal possession of, or carried as baggage or express by the owner thereof, and such owner shall have in his possession at the time of such taking out of the state a non-resident license duly issued to him under the provisions of law, and shall accompany the said birds, fowls or animals on the same train or other conveyance of the common carrier beyond the borders of the state. Any person who shall violate any of the provisions of this section shall be punished by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment in the county jail not less than sixty days nor more than six months, or by both such fine and imprisonment in the discretion of the court.

Note—That part of the two preceding sections relative to number of game birds in possession or which may be transported, is modified by chapter 586, laws of 1907, and the transportation is regulated thereby. See section 59 hereof.

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§ 107. Transporting into or through this state from another state of fish or game prohibited by the laws of such state to be shipped, is prohibited, seizure. Section 4565m; sec. 28, ch. 312, 1899. It shall be unlawful and is prohibited for any person, firm or corporation or common carrier to ship into, or through this state from any other state any fish or game prohibited by the laws of said state to be shipped or transported and it shall be the duty of the state fish or game warden of this state or his deputy, to seize, hold, and dispose of, according to the laws of this state any fish or game brought into or shipped into this state, or carried through, or attempted to be carried through this state, prohibited to be so shipped or transported by the laws of any other state, and further to dispose of the same according to the laws of this state. Any person, firm or corporation violating the provisions of this act shall be required, upon due proof thereof, to forfeit a sum not less than twenty-five dollars nor more than one hundred dollars, in the discretion of the court.

§ 108. Transportation of fish or game during close season; exception as to private hatcheries. Section 1498m, as amended by sec. 21, ch. 358, 1901. Any person or corporation, or any agent or servant of the latter, who shall, for compensation, or otherwise, transport any fish of either of the varieties for which a close season is prescribed by law, during such season or to use the stamp or brand hereinafter described 'n the shipment of any fish not raised in a private hatchery or transport any of the animals, fowls or birds for which a close season is prescribed by law, during such season, or ship, carry or transport, offer or receive for shipment or transportation to any place beyond this state any feathered game protected by those statutes, except

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live birds and also fifty birds or fowl of any variety when the same are accompanied by and in the possession of the owner thereof, if a non-resident, and also trout raised in private hatcheries as hereinafter provided or ship, transport or carry out of this state to sell or offer for sale any duck of any variety, or any snipe or plover between the first day of December and the next succeeding first day of September, shall forfeit not less than twenty-five dollars nor more than one hundred dollars for each such violation, to be recovered in a civil action brought in the name of the state by the state fish and game warden or one of his deputies. The possession of any such animals, fowl or birds during the close season therefor, for shipment or in transit, shall be prima facie evidence of the violation of this section. Nothing herein contained shall prevent the shipment of trout raised in private hatcheries, the package or box containing which shall be branded with an iron brand as follows: "Shipped from the private hatchery of" (here insert the name of the owner and the location of the hatchery). It shall be the duty of every person whenever any animal, fish or game of any of the kinds the taking, catching or killing of which is prohibited by law at any or all times (except during the periods in which the same may be lawfully taken, caught or killed), is offered to him for transportation out of this state, to at once notify and give full particulars concerning such offer and by whom made to the state fish and game warden or one of his deputies. All sections of these statutes relating to having in possession or under control, or th sale, sh'pment or transportation of any animal, fish, water fowl or bird, shall be construed to include any and all parts of the flesh and meat thereof.

Note—As to possession and transportation of game birds see secs. 54 and 59 of this compilation;

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as to private hatcheries and shipping and marking packages see sec. 121 of this compilation. Those sections regulate these matters.

§ 109. Wardens and others may examine packages; duty of common carrier to permit examination. Section 22, ch. 312, 1899. It shall be within the power of every officer charged with the enforcement of laws protecting fish and game to examine and open any package in the possesion of a transportation company, which said packages he shall suspect or have reason to believe contains contraband fish or game. It is hereby made the duty of every common carrier, agent, servant or employe thereof, to permit any officer charged with the enforcement of laws for the protection of fish and game to examine and open any package or parcel in the possession of said common carrier, or agent, servant, or employe thereof, which the said officer so charged with the enforcement of said laws shall suspect or have reason to believe contains fish or game protected by the laws of the state, and not entitled under such law to be transported, or when the said officer shall suspect or have reason to believe that the said package or parcel is falsely labeled. Any person, firm or corporation refusing to an officer charged with the enforcement of the fish and game laws permission to examine or open any such package or parcel or shall in any manner hinder or impede such action by the said officer, shall forfeit to the state of Wisconsin a sum not less than fifty dollars nor more than one hundred and fifty dollars, in the discretion of the court.

§ 110. Officers of other states may follow fish and game unlawfully shipped into this state; duty of common carrier to deliver fish or game demanded; disposition of game. Section 1498—5, sec. 24, ch. 312, 1899. Any officer of any other state who is by

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the laws of said state authorized or directed to enforce the fish and game laws of said state is hereby designated and declared an agent of said state within this state. And it shall be lawful for said officer to follow any fish or game unlawfully shipped or taken from this state into this state and seize the same, and convey the same back to his own state, and so far as conc rned said fish or game so shipped or brought from said state into this state, the laws of the state from which the same was brought into this state shall be declared to be and are hereby constitut d the laws of this state concern[ing]such fish or game. And transportation companies are hereby authorized to deliver to such officer of another stat , upon submission of proper proof of his official capacity, any fish or game so demanded or seized by him, and he, the said officer, is hereby authorized to take with him such fish or game to his own state. Or the said agent may dispose of said fish or game within this state, in accordance with the laws of the state from which the same was shipped, such disposition to be made under the supervision of an officer of this state authorized and directed to enforce fish and game laws, and the expenses of such officer for his assistance shall be made a lien upon such fish or game, or the proceeds thereof.

Note—The act of Congress of May 25, 1900, 31 Stats. 187, 3 Comp. Stats. 181, commonly known as the Lacey act is contained in the following five sections.

§ 111. Powers of department of agriculture enlarged; purpose of act. An act to enlarge the powers of the department of agriculture, prohibit the transportation by interstate commerce of game killed in violation of local laws, and for other purposes.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duties and powers of the department of agriculture are hereby enlarged so as to include the preservation, distribution, introduction, and restoration of game birds and other wild birds. The secretary of agriculture is hereby authorized to adopt such measures as may be necessary to carry out the purposes of this act and to purchase such game birds and other wild birds as may be required therefor, subject, however, to the laws of the various states and territories. The object and purpose of this act is to aid in the restoration of such birds in those parts of the United States adapted thereto where the same have become scarce or extinct and also to regulate the introduction of American or foreign birds or animals in localities where they have not heretofore existed.

The secretary of agriculture shall from time to time collect and publish useful information as to the propagation, uses, and preservation of such birds.

And the secretary of agriculture shall make and publish all needful rules and regulations for carrying out the purposes of this act, and shall expend for said purposes such sums as congress may appropriate therefor.

§ 112. Importation of certain animals forbidden. Section 2. That it shall be unlawful for any person or persons to import in to the United States any foreign wild animal or bird except under special permit from the United States department of agriculture: Provided, That nothing in this section shall restrict the importation of natural history specimens for museums or scientific collections, or the importation of certain cage birds, such as domesticated canaries, parrots, or such other species as the secretary of agriculture may designate.

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The importation of the mongoose, the so-called "flying foxes" or fruit bats, the English sparrow, the starling, or such other birds or animals as the secretary of agriculture may from time to time declare injurious to the interest of agriculture or horticulture is hereby prohibited, and such species upon arrival at any of the ports of the United States shall be destroyed or returned at the expense of the owner. The secretary of the treasury is hereby authorized to make regulations for carrying into effect the provisions of this section.

§ 113. **Transportation of animals, the importation of which is prohibited, is made unlawful.** Section 3. That it shall be unlawful for any person or persons to deliver to any common carrier, or for any common carrier to transport from one state or territory to another state or territory, or from the District of Columbia or Alaska to any state or territory, or from any state or territory to the District of Columbia or Alaska, any foreign animals or birds the importation of which is prohibited, or the dead bodies or parts thereof of any birds, wild animals or where such animals or birds have been killed in violation of the laws of the state, territory, or district in which the same were killed: Provided, That nothing herein shall prevent the transportation of any dead birds or animals killed during the season when the same may be lawfully captured, and the export of which is not prohibited by law in the state, territory, or district in which the same are killed.

§ 114. **Packages, how to be marked.** Section 4. That all packages containing such dead animals, birds, or parts thereof, when shipped by interstate commerce, as provided in section one of this act, shall be plainly and clearly marked so that the name

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and address of the shipper and the nature of the contents may be readily ascertained on inspection of the outside of such packages. For each invasion or violation of this act the shipper shall, upon conviction, pay a fine of not exceeding two hundred dollars, and the consignee knowingly receiving such articles so shipped and transported in violation of this act shall, upon conviction, pay a fine of not exceeding two hundred dollars; and the carrier knowingly carrying or transporting the same shall, upon conviction, pay a fine of not exceeding two hundred dollars.

§ 115. Bodies of animals subject to laws of state into which they are transported. Section 5. That all dead bodies or parts thereof, of any foreign game animals, or game or song birds, the importation of which is prohibited, or the dead bodies, or parts thereof, of any wild game animals, or game or song birds transported into any state or territory, or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such state or territory be subject to the operation and effect of the laws of such state or territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such animals and birds had been produced in such state or territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise. This act shall not prevent the importation, transportation, or sale of birds or bird plumage manufactured from the feathers of barnyard fowl.

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CHAPTER IX.

Private Fish Hatcheries.

1. **Effect of Fish and Game Laws on.**
2. **Definition.**
3. **Reports.**
4. **Transportation.**

§ 116. Effect of fish and game laws on private hatcheries. Section 1498n. Nothing in these statutes concerning the protection of fish and game shall affect the operation of state or private hatcheries, the removal of fish which have died from natural causes from the waters of this state, the removal of deleterious fish, with the written consent and under the direction of the commissioners of fisheries, the propagation or transportation, collecting and transplanting of fish or fish fry by state authority, the propagation of fish in private waters or the transportation of fish therefrom in the manner directed by law, nor the transportation of fish into or through this state or out of it by the commissioners of fisheries of other states or of the United States.

§ 117. Private fish hatchery, defined. Section 1498—10; sec. 1, ch. 435, 1905; ch. 525, 1909. For the purpose of construing the fish and game laws of this state the term "private fish hatchery," wherever that term is used, shall be taken to mean the following named equipments and no others:

(a) Private ponds and the buildings used for the purpose of hatching fish, located at the head waters of and along a stream for a distance of not to ex-

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ceed one mile on private land possessed and controlled by the owner or owners of such hatchery.

(b) Private ponds and the buildings used for the purpose of hatching fish, located on private land where the supply of water for the hatchery is furnished by springs or artificial wells.

(c) Ponds and the buildings used for hatching fish, located on private land where the supply of water for the hatchery is obtained by the use of flumes, pipes, or ditches from flowing streams; provided that said flumes, pipes, or ditches shall be properly screened so as to prevent fish from passing from such streams to the ponds of such hatchery.

§ 118. Penalty for illegally stocking hatchery. Section 1498—11; sec. 2, ch. 435, 1905. It is hereby made unlawful to stock any private fish hatchery with fish or fry obtained from any of the Wisconsin state fish hatcheries, or from any of the waters of the state except when such fish have been taken in a lawful manner.

§ 119. Penalty for violating act. Section 1498—12; sec. 3, ch. 435, 1905. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than twenty dollars nor more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail in the county in which such offense was committed not less than twesty days nor more than ninety days, or by both such fine and imprisonment in the discretion of the court.

§ 120. Owners to report and hatcheries to be numbered, inspected and registered. Section 1498—13; sec. 4, ch. 435, 1905. It is hereby made the

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duty of the owners or lessees of private fish hatcheries to report to the state fish and game warden, the name, if any, and location of such hatchery, whereupon the state fish and game warden shall inspect the same, number and register such hatchery and immediately inform the owner thereof, of the number given such hatchery and thereafter the owner or lessee of any such hatchery shall not ship any fish from his said hatchery without marking every package shipped therefrom with the number of such hatchery.

§ 121. Transportation and marking packages. Section 1498—14; sec. 5, ch. 435, 1905. Each package or box containing fish propagated and raised in any private hatchery shipped or offered for shipment shall be branded with an iron brand as follows: Shipped from the private fish hatchery of (here insert the name of the owner or lessee, location and number of the hatchery) and such brands shall not be used on packages containing fish not taken from such private hatchery.

§ 122. Unlawful use of brand; penalty. Section 1498—15; sec. 6, ch. 435, 1905. Any person who shall use the stamp or brand described in this act on any box or package containing fish not propagated and raised in a private fish hatchery duly numbered and registered as provided for in this act or offer for shipment such box or package shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars and the costs of prosecution and be imprisoned in the county jail of the county in which the offense was committed until said fine and costs ar paid, not to exceed ninety days.

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CHAPTER X.

Miscellaneous.

1. Commissioners of Fisheries.
2. Scientist's Certificate.
3. Fishway.
4. Bounties.
5. Depositing Deleterious Substances.
6. Actions; Burden of proof; Disposition of Fines; General Penalty.

§ 123. **Commissioners of fisheries, superintendent or agents may take fish to stock waters.** Section 1497cm—2; ch. 531, 1909. For the purpose of stocking waters or securing fish eggs for artificial propagation the commissioners of fisheries or the superintesdent of fisheries or his duly appointed agents authorized by him in writing may take fish at any time from any of the waters within the jurisdiction of the state; provided that no fish shall be taken except in the presence and under the direction of one of the above enumerated persons. Whenever permission is granted to any agent for the taking of fish for the purposes herein specified, same shall be a written permit and shall plainly state to whom the permit is given, the date of expiration and what kind or kinds of fish shall be taken thereunder and only such fish shall be taken and possessed and no other. Fish necessarily killed in such taking shall be disposed of for the best interest of the state.

§ 124. **Unlawful fishing by employee of the commissioners of fisheries.** Section 4567c. It shall

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be unlawful for any employe of the commissioners of fisheries, while engaged in catching wild fish from the public waters for the purpose of artificial propagation, to have in his possession any other kinds of fish than those he has been directed to take by the superintendent of fisheries or his agent, duly authorized in writing. For violation of this section the offender shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, and be removed from any office or position he may hold under or by the authority of such commissioners.

§ 125. **Removal of fish eggs; penalty.** Section 4567b. Any person who shall come into this state and remove fish eggs or fish of any variety therefrom while the fish are alive, without having a permit from the president of the commissioners of fisheries to do so shall be fined not less than fifty dollars or be imprisoned in the county jail not less than ten nor more than thirty days.

§ 126. **Scientist's certificate.** Section 1498i, sec. 5, ch. 156, 1901, sec. 26, ch. 358, 1901, and ch. 500, 1905. The state fish and game warden may grant, on satisfactory testimonials of well known scientists only, a certificate to any member of an incorporated society of natural history, or to any professor of any university, school or college, or to any person properly accredited by any such institution, or to any custodian of a public museum, authorizing such person or institution to collect for scientific purposes only the nests, eggs, animals (except deer), birds or fish protected by these statutes. No person to whom such certificate is issued shall dispose of any such specimen except in exchange for scientific purposes. All such certificates shall expire on the first day of January following the date of their issue, and shall not be transferable. Any person de-

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siring to secure a scientific certificate shall make application to the state fish and game warden therefor, upon blanks to be furnished by the state fish and game warden department, and shall accompany such application with a fee of two dollars. Before any such certificate shall be issued the applicant shall execute and deliver to the state fish and game warden a bond running to the state of Wisconsin. The bond of such applicant shall be in the sum of one hundred dollars, with two sureties, and conditioned that if the applicant shall well and faithfully observe and comply with all the requirements of this act, and the certificate issued thereunder, said obligation to be null and void, otherwise to remain in full force. Each said surety shall be worth at least the sum of one hundred dollars, in property in this state, over and above all debts and liabilities and property exempt by law from sale on execution.

All moneys received under the provisions of this act shall be paid to the state treasurer and shall become a part of the general fund.

Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars and the costs of prosecution, or by imprisonment in the county jail of the county in which the offense was committed not less than sixty days nor more than ninety days, or by both such fine and imprisonment in the discretion of the court. The certificate of any person convicted under this act shall be forfeited and such convicted person shall not be entitled to another certificate for the period of one year from and after the date of such conviction.

All certificates heretofore issued are hereby revoked and declared null and void.

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§ 127. Fishways. By the provisions of ch 461, laws of 1905 as amended by ch. 16, of the laws of 1905 (Special Session) and ch. 488, of the laws of 1907, fishways are required to be constructed and maintained in each dam across any stream or river in the state containing game fish and certain officers are charged with the duty of seeing that these laws are enforced. Among others deputy fish and game wardens are charged with this duty but the provisions of these acts are so voluminous that we give above only numbers of the acts in regard thereto and where they may be found.

§ 127a. Dams. May be removed upon notice. Ch. 282, 1911. 1. The commissioner of fisheries may remove or cause to be removed, in such manner as they may deem fit, old and abandoned dams in streams in the state of Wisconsin, upon giving sixty days' notice in writing to the owner thereof, if he can be found. It shall be the duty of deputy game wardens to act under the direction and authority of the commissioners of fisheries in carrying out the provisions of this section.

§ 130. Bounty for killing wolves, wildcat and lynx. Section 1626, ch. 102, 1907. Any person who shall kill any wolf cub between the first day of March and the first day of November next following shall be entitled to a reward of four dollars, and every person who shall kill a mature wolf shall be entitled to a reward of ten dollars, and every person who shall kill a wildcat or lynx shall be entitled to a reward of three dollars to be paid by the county wherein said wolf, wildcat or lynx was killed, upon compliance with the provisions of section 1627 of the statutes of 1898. N thing in this act shall prohibit any county from ncreasing said bounty or reward by a majority v te of its county

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board at any annual meeting, provided that no county shall pay more than six dollars reward for the killing of a wolf cub as above described. Upon compliance with the provisions of section 1628 of the statutes of 1898, the same reward for the killing of any wolf, wildcat or lynx shall be paid by the state as is paid by the county under this section.

Note—Forms for presenting claims for bounties for killing destructive wild animals are prescribed by chapter 63, L. 1907, omitted here.

§ 131. Depositing deleterious substances. Section 4567, as amended by ch. 235, 1903 and ch. 402, 1905. Any person who shall cast, deposit, or throw overboard from any row, sail or steamboat or other craft into any of the inland waters of this state or into Green bay, Sturgeon bay and Chequamegon bay, or deposit or leave upon the ice thereof until it melts, any fish offal, which shall be construed to mean and include the head, intestines, blood and cleanings of fish and dead fish, or throw or deposit or permit to be thrown or deposited any lime, tanbark, ship ballast, stone, sand, slabs, decayed wood, sawdust, saw mill offal and planing mill shavings, or any acids or chemicals or waste or refuse arising from the manufacture of pulp paper, or beet sugar or other substances deleterious to fish life, (authorized drainage and sewerage from municipalities excepted), into any of the rivers, lakes or streams of this state, including Green bay, Chequamegon bay, Sturgeon bay or into any streams wherein there have been planted trout fry, or in which trout naturally abound, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than four months. (Nothing in this section shall apply to the following streams: the Kickapoo river,

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the Pine river in Richland county, Balsam branch in Polk county, the Chippewa river from the mouth of Thornapple river to its mouth, Flambeau river from dam at Ladysmith to its mouth, the Black river from the Falls dam down in Jackson county and the Wisconsin river from the north boundary line of the city of Rhinelander down to its mouth.) The fact of any fisherman coming to the shore with dressed fish in his boat and without the offal produced by such dressing shall be prima facie evidence of the violation of the first clause of this section.

§ 132 Action for violation of law relating to preservation of fish and game; burden of proof. Section 1498 in: ch. 525, 1909. In any prosecution for any violation of any of the provisions of law relating to the preservation of fish and game, it shall not be necessary for the prosecution to allege or prove that the animals were not domesticated or that the birds, animals, or fish were not taken for scientific purposes, but the person claiming that such animals were domesticated, or that the said birds or animals were taken for scientific purposes, as provided by law shall prove on the hearing or trial that such animals were domesticated, or that such birds or fish were taken for scientific purposes as by law provided, or were not caught, taken, or killed outside this state, or had in possession without license or permit therefor.

§ 133. Fines imposed and collected; how disposed of. Section 4567m; ch. 525, 1909. One-third of the fines imposed and collected under the laws regulating the taking, killing, having in possession, or transportation of fish and game, including the violations of the acts relative to the granting and holding of licenses to hunt certain game,

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shall be paid by the magistrate to the person informing of the offense and prosecuting the offender to conviction, one-third shall be paid by the magistrate before whom the matter shall have been tried and the fines imposed to the county treasurer, and shall be by him designated and set apart as a fund for the protection of fish and game to reimburse the county for the moneys which it shall expend for the enforcement of the fish and game laws, and the remainder shall go to the school fund as provided by law.

Note—Section 1498h is repealed by ch. 525, 1909.

§ 134. Penalty; general provision applicable when no specific penalty is prescribed. Section 45671; ch. 577, 1907. Any person violating any of the fish or game laws for which there is no specific penalty prescribed, shall be punished by a fine of not more than fifty dollars and the cost of prosecution, or by imprisonment in the county jail for not more than sixty days, or by both such fine and imprisonment in the discretion of the court.

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NOTES AND SUGGESTIONS.

As to the Procedure in Actions Under the Fish and Game Laws.

Many offenses are defined in the fish and game laws. Some are punished as crimes, that is, in criminal prosecutions, begun in the usual way. As to such procedure, some suggestions are made hereafter in Appendix No. 1. Other defined offenses are punished by way of forfeiture, which is a civil action for the recovery of a penalty imposed by law. Such are treated here after in Appendix No. 2.

It would be impracticable to append forms of complaints for each offense defined by these laws. At the same time, some general suggestions may be useful and helpful to the Fish and Game Department and to district attorneys having charge of prosecutions.

APPENDIX NO. 1.

Criminal Prosecutions.

The form of the complaint in criminal prosecutions under the fish asd game laws should be drafted in accordance with the rules of procedure relating to oth r criminal prosecutions. The following is an approved form of criminal complaint (see sec. 4741, Wis. Stats. 1898):

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State of Wisconsin,
In Justice's Court, Dane Co.

Before Richard Roe,
Justice of the Peace.

The State of Wisconsin, Plaintiff,
vs.
John Doe, Defendant.

A. S. Smith, being first duly sworn and examined on oath before me, says that on the 24th day of July, A. D. 1909, at said county, John Doe did (here state the offense with which defendant is charged according to suggestions and notes hereinafter made' contrary to the statute in such case made and provided against the peace and dignity of the state of Wisconsin.

(Signature of Complainant.)

Subscribed and sworn to before me this 25th day of July, A. D. 1909.

_____ _____,
Justice of the Peace.

It is by far the safer practice to have the complaint subscribed and sworn to before the justice of the peace before whom the action is brought. The complainant should be examined on oath by the justice, either just before or at the time complaint is reduced to writing. (Sec. 4740, Wis. Stats., 1898.)

Compla'nts may be made upon information and belief. Frequently they must be so made. In all such cases that fact should be stated in the body of the complaint substantially is this form:

"That he is informed and verily believes," (to be inserted between the words "says" and "that" in the form above set forth).

See State vs. Dale, 3 Wis. 795.
State vs. Davie, 62 Wis. 309, 311.

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State vs. Bielby, 21 Wis. 204–208.
State vs. Keyes, 75 Wis. 288.
State vs. Evans, 88 Wis. 255.
Fitkenhauer vs. State, 112 Wis. 491.
Butler vs. State, 102 Wis. 364.
Murphy vs. State, 124 Wis. 635.

The case of Murphy vs. State, last above cited, is the fullest expression of our court on this subject.

It is not necessary that the complaint should conclude with the words "against the peace and dignity of the state of Wisconsin," but it is by far the better practice so to conclude.

If the defendant's name is unknown, he should be mentioned in the complaint in substantially this language: "A man whose name is unknown to the complainant, but who resides in the town of B," or some other description which the best nature of the case will admit of.

Bryant's Wis. Justice, (8th ed.) p. 1223.
29 Wis. 586.

The complaint should allege a day certain upon which the offense was committed, and should not state "on or about." It is a peculiarity of the law, perhaps, which requires that the complaint must allege that the offense was committed on a day certain, though it is not necessary on the trial to prove the precise day, month or year as alleged.

Bryant's Justice, (8th ed.) p. 1224.
1 Pin. Wis. 124.
26 Wis. 423.
1 Bish. Crim. Pro. sec. 387.

The offenses defined by the fish and game laws are all offenses created by statute and therefore the "body" of the offense, that is, the "charge," may be

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in the words of the statute or in words of substantially the same meaning.

See Sec. 4669, Wis. Stats., 1898.
State vs. Delue, 2 Pin. 204.
Bonneville vs. State, 53 Wis. 680.
Steur vs. State, 59 Wis. 472.

It is sufficient to frame the complaint in the words of the statute, in all cases where the statute so far individuates the offense, that the offender has proper notice from the mere adoption of statutory terms, what the offense he is to be held for really is; but not otherwise. Where the statute states the offense so that it may be rightly understood by the court it is safer to follow the words of the statute than to resort to words of similar meaning.

Bryant's Wisconsin Justice, (8th ed.) p. 1221.

The statutes of our state are very liberal with respect to the right to amend, in case any mistakes shall be made in drafting a complaint. The same rules which apply to the amendment of indictments and informations apply to the amendment of complaints.

See also sec 4750, Wis. Stats. 1898.

The statutes setting forth when and what amendments are permitted in criminal prosecutions in courts of record, which also apply to trials before justices of the peace, are sections 4703 to 4706 inclusive.

See also sec. 4750, Wis. Stats. 1898.

This last statute cited provides that the offense shall be stated in plain, concise language, without unnecessary repetition. See also sec. 4658, Wis. Stats., 1898, which declares that an information (and under sec. 4742 aforesaid this also means complaints in justice's court) shall be sufficient if it can

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be understood therefrom that (see the requirements).

The insertion of unnecessary words in a complaint will not vitiate it. Such unnecessary words are surplusage.

37 Wis. 196.
Bisping vs. State, 123 Wis. 267.

When a statute makes it a crime to do any one of several things mentioned disjunctively (that is, connected by the word "or,") all of which are published alike, it is a general rule that the whole may be charged conjunctively (that is, connected by the word "and,") in a single count and as a single offense.

Bryant's Wis. Justice, (8th ed.) p. 1222.
21 Wis. 204.
22 Wis. 442.
29 Wis. 327.

But a charge in a complaint should not be made disjunctively, so as to leave uncertain what is really intended to be relied upon as the accusation. Thus, a complaint stating that the accused forged or caused to be forged, an instrument, that he erected, or caused to be erected, a nuisance is sot sufficiently positive.

Bryant's Wisconsin Justice (8th ed.) p. 1223.

Persons drafting complaints under these statutes should carefully examine the statute defining the offense and in most cases, if not all, it will be safe to take the language for the body of the complaint from the language of the statute by which the offense is defined, that is to say, take the language of the act setting forth the acts which constitute the offense and embody such language in the complaint as the "charge" or "body" of the complaint in in the place provided for that purpose in the form

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above set forth; that is to say, in the place in the above form inclosed in brackets, where the words "here state the offense with which defendant is charged" are found.

Justices of the peace have jurisdiction to try and determine charges for offenses, the punishment whereof does not exceed six months in the county jail, or a fine of one hundred dollars, or both such fine and imprisonment. Where the punishment is greater a justice of the peace has jurisdiction only to arrest, examine and commit to jail or bail the offender pend'ng trial in the circuit court.

R. S., sec. 4739.

For further suggestions respecting drawing complaints, etc., see Bryant's Wis. Justice, (8th ed.) p. 1220 et seq.

For proceedings in which the justice has jurisdiction to arrest, examine and hold to bail, see Bryants Justice, (8th ed.) p. 1266 et seq.

The Warrant.

A form of warrant is found in page 1229 (8th ed.) of Bryant's Wisconsin Justice. The procedure is fully set forth there and need not be here added to.

FORMS OF COMPLAINTS.

For Hunting Without License.

State of Wisconsin, }
County of ———, } ss.

——— ———, being duly sworn, says that on the ———day of ———, in the year 190—, at said county ——— ———(name of the accused) did pursue (hunt or kill) (state what), without at such time being in

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possession of a license authorizing him, then and there, to pursue, (hunt or kill) animals, fowls or birds, contrary to the provisions of section 4562a, W. S. of 1898, as amended by section 30a, of chapter 312 of the laws of said state for 1899, and against the peace and dignity of the state of Wisconsin.

——— ———.

Subscribed and sworn to before me
this ——— day of ———, A. D. 190—.

———— ————,
Justice of the Peace.

For Transferring License.

State of Wisconsin, }
County of ————, } ss.

——— ———, being duly sworn, says that on the ———day of ———, in the year 190—, at said county, ——— ———(name of the accused) was duly licensed to pursue, hunt or kill game in the state of Wisconsin during the open season therefor in the year 190— by the State Fish and Game Warden (or by the county clerk of ——— county in the state of Wisconsin); that said ———— ————, during the open season for the killing of game in the year 190—, which season was covered by the license aforesaid, to-wit: on the ——— day of ————, in the year 190—, at the county of ————, in the state of Wisconsin, did unlawfully furnish to and permit another, to-wit: ———— ———— (name of person to whom furnished), to have said license contrary to the provisions of section 4562a of the Wiscossin Statutes of 1898, as amended by section 30a of chapter 312, laws of Wisconsin for 1899, and

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against the peace and dignity of the state of Wisconsin.

——— ———.

Subscribed and sworn to before me
this —— day of ——, A. D. 190—.

——— ———,
Justice of the Peace.

———

For Altering License.

State of Wisconsin, }
County of ———, } ss.

—— ——, being duly sworn, says that on the ——day of ——, in the year 190—, at said county, —— ——(name of the accused), did unlawfully alter and change a license for the pursuit, hunting or killing of game in said state during the open season therefor in the year 190—, which license was issued by the state fish and game warden of the state of Wisconsin (or the county clerk of ——— county in the state of Wisconsin), pursuant to the provisions of chapter 185 of the Wisconsin Statutes of 1898 (describe the alteration made in the license), contrary to the provisions of section 4562b of said chapter, and against the peace and dignity of the state of Wisconsin.

——— ———.

Subscribed and sworn to before me
this —— day of ——, A. D. 190—.

——— ———,
Justice of the Peace.

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Hunting Mink During Closed Season.

State of Wisconsin, }
County of ———, } ss.

——— ———, being first duly sworn, says that on the ——day of ——— in the year 19—, at said county (name of accused) did unlawfully take, catch, kill, hunt, and pursue one mink, contrary to the provisions of sections 4565c—5 of the statutes of Wisconsin, and against the peace and dignity of the state of Wisconsin.

——— ———.

Subscribed and sworn to before me
this ——— day of ———, A. D. 19—.

——— ———.

Justice of the Peace.

For Transporting More than the Allotted Number of Game Birds.

State of Wisconsin, }
County of ———, } ss.

——— ———, being duly sworn, says that on the ——— day of ———— in the year 19—, at said county, (name of accused) did unlawfully have in possession and ship to (name point of shipment) by common carrier, more than five prairie chicken; to-wit, twenty-five prairie chickens, contrary to the provisions of section 4560a—22, of the Wisconsin statutes, and contrary to the peace and dignity of the state of Wisconsin.

——— ———.

Subscribed and sworn to before me this ——— day of ————, A. D. 19—.

——— ———,

Justice of the Peace.

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For Using Set Line Without License.

State of Wisconsin, }
County of ———, } ss.

——— ———, being first duly sworn, says that on the ——— day of ———, in the year of 19—, at said county, (name of accused) did unlawfully use a set line in the waters of Lake Winnecone for the purpose of taking catfish and sturgeon without having obtained a license authorizing him then and there to take catfish or sturgeon, contrary to the provisions of section 4560d—1, of the Wisconsin statutes, and against the peace and dignity of the state of Wisconsin.

——— ———.

Subscribed and sworn to before me this ——— day of ———, A. D. 19—.

——— ———,
Justice of the Peace.

For Taking Rough Fish in Inland Water Without a License.

State of Wisconsin, }
County of ———, } ss.

——— ———, being duly sworn, says that on the ——— day of ——— in the year 19—, at said county, (name of accused) did unlawfully use and operate a seine in the inland waters of the state of Wisconsin, to-wit, in the waters of (name of lake or stream) said waters not being nor forming part of the following waters: Rice Lake, French Lake, Mud Lake, Round Lake, French Slough and Black river in La Crosse county; Curtois Pond and French Town Slough in Crawford county; Cassville Slough from Glenhaven to Cassville; Bertram Lake in Grant

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county; that part of the Mississippi river within fifteen hundred feet of the Chippewa river (and, if between the 15th day of April and 15th day of November) Beef Slough in Buffalo county; for the purpose of catching and taking buffalo-fish, carp, redhorse, suckers, sheepshead, eel-pout, garfish and dog-fish, without having obtained a license authorizing him then and there to use and operate a seine for the purpose of catching or taking buffalo-fish, carp, redhorse, suckers, sheepshead, eel-pout, garfish, and dogfish, contrary to the provisions of section 4560a—2 of the Wisconsin statutes, and against the peace and dignity of the state of Wisconsin.

——— ———.

Subscribed and sworn to before me this —— day of ———, A. D. 19—.

———— ————,
Justice of the Peace.

For Killing Fish With Dynamite.

State of Wisconsin,)
County of ———, (ss.

—— ——, being first duly sworn, says that on the —— day of —— in the year of 19—, at said county (name of accused) did unlawfully take, catch and kill fish in the waters of this state, to-wit, in the waters of (here name of lake or stream) by means of dynamite, such dynamite not having been used by order of public authorities, nor for the purpose of clearing a channel in any stream after obtaining permission so to do from the commissioners of fisheries, contrary to the provisions of section 4560d of the Wisconsin statutes, and against the peace and dignity of the state of Wisconsin.

——— ———.

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Subscribed and sworn to before me this —— day of ———, A. D. 19—.

———— ————,
Justice of the Peace.

For Having in Possession More Than the Allotted Number of Trout.

State of Wisconsin, }
County of ———, } ss.

—— ——, being duly sworn, says that on the—— day of ——, in the year of 19—, at said county, (name of accused) did unlawfully have in his possession and under his control more than forty-five trout caught in the inland waters of this state, to-wit, sixty-five brook trout caugh in (here name lake or stream in which caught) contrary to the provisions of section 4560a—13 of the Wisconsin statutes, and against the peace and dignity of the state of Wisconsin.

———— ————.

Subscribed and sworn to before me this —— day of ———, A. D. 19—.

———— ————,
Justice of the Peace.

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APPENDIX NO. 2.

Distinction Between Criminal Prosecutions and Forfeiture Action.

Criminal prosecution and forfeiture actions are distinguished from each other by the terms of section 3294, Wis. Stats., 1898. If the act of omission made an offense by the law is punishable by fine and imprisonment or by fine or imprisonment or specially declared by law to be a misdemeanor, the proceeding is a criminal prosecution. If, however, the punishment is by forfeiture or penalty other than a fine, then the action is a forfeiture action, or in other words a civil action for the recovery of the penalty.

Procedure in Forfeiture Actions.

A forfeiture action is a civil action. Sec. 3299, W. S., 1898.

Unless especially provided for otherwise, a forfeiture action is brought in the name of the state. The summons, pleadings and proceedings are the same as in civil actions.

"In such actions it shall be sufficient to allege in the complaint that the defendant is indebted to the plaintiff in the amount of the forfeiture, claimed according to the provisions of the statute which imposes it, specifying the section and chapter containing such statute," and when such section imposes a forfeiture for several offenses it shall specify the particular offense for which the action is brought. Sec. 3295, W. S., 1898.

The complaint should ask judgment for the

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plaintiff in the highest sum specified in the statute fixing the penalty.

Section 3299, W. S., 1898.

The judgment, however, may be rendered for such sum as the court or jury shall assess. (Section 3299.)

Form of Complaint.

The following has been approved as a form of complaint in a forfeiture action under the fish and game laws.

State of Wisconsin—In Justice Court,
Before Richard Roe, Justice of the Peace.

The State of Wisconsin, Plaintiff,
vs.
John Doe, Defendant.

A. W. Smith, being duly sworn and examined on oath by and before me, Richard Roe, a Justice of the Peace in and for said county, says that he is a deputy of the state fish and game warden of said state, and that he makes this complaint for and in behalf of the plaintiff above named, and for complaint herein says that John Doe heretofore, to-wit: on the 24th day of July, A. D. 1905, at Dane county, in the state of Wisconsin incurred a forfeiture of (here insert the highest sum stated by the act violated as the forfeiture), Dollars, according to the provisions of Section ——, Chapter ——, of the laws of Wisconsin of ——, and the said John Doe is now indebted to the State of Wisconsin in the sum of (here insert the largest sum stated by the act violated as the forfeiture or penalty for its violation) Dollars forfeiture for the violation of the section last designated.

Wherefore the complainant demands that a civil warrant be issued for the body of the said John Doe,

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and that he be arrested and dealt with according to law and held to answer to the said state of Wisconsin, therefor, and that the state do have and recover judgment for forfeiture against the said John Doe, in the sum of (here insert the sumber) dollars and for the costs and disbursements of this action.

(Signature of Complainant.)

Subscribed and sworn to before me this 25th day of July, A. D. 1905.

——— ———,

Justice of the Peace.

(Subject to change hereafter suggested when two or more offenses are defined by the same section of the law.)

State vs. Nergaard, 124 Wis. 414.

The above case holds that it is not necessary, where a deputy fish and game warden makes the complaint, to state that it is made for and in behalf of the plaintiff, for that fact is presumed, but we suggest that it is by far th better practice to have complaints so stated, whether made by warden or other persons. (For an approved form of complaint in a forfeiture action where more than one offense is defined by the same section of the statute, see State vs. Zillman, 121 Wis. 472.) The summons, pleadings and proceedings in such actions are the same as in civil actions. Section 3299, W. S., 1898. The proceedings therefore relating to the joining of issues and the trial in justice court and the appeal are governed by the law relating to civil actions, commenced by civil warrant.

The judgment shall also include the costs of the action and "shall direct that if the same is not paid, the defendant shall be committed to the county jail of the proper county, there to be imprisoned for a specified time, not exceeding six months, which period shall be fixed by the court in view of all the

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circumstances of the case, or until otherwise discharged pursuant to law." (Section 3302, W. S., 1898.) A commitment issues in case the forfeiture and costs are not paid, the same as in criminal cases and the defendant is not entitled to the liberties of the jail. (Sec. 3302, W. S., 1898.)

It is not necessary in actions for forfeiture that the plaintiff prove his case beyond a reasonable doubt. It has been held that plaintiff is entitled to recover if proof of plaintiff's claim be made by the fair preponderance of the evidence.

State vs. Nergaard, 124 Wis. 414.

Form of Warrant.

In actions for forfeiture, what is known as a civil warrant is the process used to get the defendant before the court. See Subdivision 4, section 140, Bryant's Wis. Justice. The form of warrant is prescribed by section 142 of Bryant's Justice, and a form there given. The time of the service thereof and the proceedings on the arrest of the defendant are set forth in that connection by Mr. Bryant in his work and as ready reference may be had to that work further comment is deemed unnecessary. The procedure in actions for forfeitures is set forth in chapter 14 of Bryant's Justice (8th ed.), pp. 464–477.

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APPENDIX No. 3.

Notes and Decisions on Fish and Game.

Game defined. Report of Attorney General, 1906, p. 224.

This legislative declaration of ownership by the State of game and fish in their wild, or natural condition added nothing to the law that existed before this section was enacted. As the natural right of hunting for game and fishing for fish may be restrained by the State, it follows that such animals as are denominated "game" may in terms be called the property of the sovereign power.

Am. & Eng. Ency. of Law (2nd ed.), vol. 14, 655.

Blackstone Com., vol. 2, 14, 15.

The same is true as to fish in their natural state; they are public property.

Am. & Eng. Ency. of Law (2ed. ed.), vol. 13, 556.

"Game asd fish within the boundaries of the State belong to the people in their unorganized capacity."

People v. Bootman, 180 N. Y. 7, 8.

But neither animals nor fish *ferea naturae* can be said to belong to the State in the sense that the State may s ll them or pursue them into other states and capture or recover them.

Rossmiller v. State, 114 Wis. 169.

Roberts v. Fullerton, 117 Wis. 222.

As between individuals there is no property in wild animals, game or fish until they are captured, killed or subjected to the control of man.

Am. & Eng. Ency of Law (2nd ed.), vol. 14, 655.

Ibid., vol. 2, 342.

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The privilege of hunting and fishing belongs alike to all citizens, but that privilege may be regulated by the State.

State v. Nergaard, 124 Wis. 414.

One acting within the limitations of the fish and game laws may traverse the navigable streams and waters of the state and fish therein, even against the wishes of riparian owners, if he commit no trespass on the land. A stream which is of sufficient capacity to float logs to market or actually used for commercial purposes is navigable.

Willow River Club v. Wade, 100 Wis. 86.

Riparian owners on a lake have no exclusive right to hunt and fish upon its waters.

Ne-pee-nauk Club v. Wilson, 96 Wis. 290.
See Sec. 1607a, Stats. 1898, Sec. 124 hereof.
Report of Atty. Gen., 1906, p. 133.

The owner of lands has the exclusive right of hunting thereon and the right to control and protect wild game thereon and has the same rights upon a highway that has been established thereon.

Realty Company v. Johnson (Minn.), 66 L. R. A. 439.

Possession of animals *ferea naturae* is *prima facie* evidence of title. Liberating an animal, captured during the close season in violation of law, gives the captor no right of action against the person so liberating it.

James v. Wood (Me.), 8 L. R. A. 488.
See also State v Shaw (Ohio), 60 L. R. A. 481.

One possessing the right to shoot game upon certain lands possesses an interest in the soil and may maintain an action against a trespasser.

Payne v. Sheets (Vt.), 55 Att. Rep. 656.

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A person is guilty of trespass if he go upon the land of another in pursuit of game without the latter's permission.

Diana Shooting Club v. Lamoreaux, 114 Wis. 44.

Am. & Eng. Ency. of Law (2nd ed.), vol. 14, 656.

See also Sec. 46 hereof.

As between individuals, the law also recognizes a right of property in wild animals. As between the owner of the land upon which the animals are found and a mere trespasser who goes upon such land for the purpose of taking the game: they belong to the former.

Kellogg v. King, 114 Calif. 378.

Allen v. Wyckoff, 48 N. J. Law 90.

But it has been held as to animals of the chase captured upon the lands of another, that they belong to the captor, even if the capture is effected by the trespass upon the lands of another.

Cooley on Torts, (2nd ed.,) 435, 436.

"The protection and preservation of game has been secured by law in all civilized countries and may be justified on many grounds, one of which is for the purposes of food. The measures best adapted for this end are for the legislature to determine, and courts cannot review its discretion."

Phelps v. Racey, 60 N. Y. 10.

But see People v. Buffalo Fish Co., 164 N. Y. 93.

This latter case, however is overruled by People ex rel. Hill v. Hesterberg, 184 N. Y. 126.

A law which prohibits the possession of game during the closed season even if brought from without the state is a valid exercise of the police power and is not in conflict with th constitution of the United

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States, either as depriving persons importing game of their property without due process of law, or as an interference with, or regulation of, interstate commerce.

Silz v. Hesterberg, 211 U. S. 31.

The fish and game laws of Wisconsin apply to Indians born within the jurisdiction of the United States and residing within the territory ceded by the Chippewa Indians to the United States, notwithstanding the treaty proclaimed March 28, 1843. An Indian who receives an allotment and patent for land, becomes a citizen of the United States and of the state where he resides and cannot claim immunity from the criminal laws of the state regulating the taking of fish from the state waters, by virtue of old federal treaties.

State v. Morrin, (Wis.) 117 N. W. 1006.

An act of the legislature regulating the method and times of catching fish in the waters of this state is not unconstitutional as class legislation because it makes different regulations for different waters, or contains provisions applying to certain localities or waters only, or wholly exempts certain waters from all such regulations.

Bittenhaus v. Johnson, 92 Wis. 588.

Provisions of such an act declaring that nets in unlawful use are public nuisances and making it the duty of the wardens and peace officers to destroy the same forthwith when found in such unlawful use and exempting such offic rs from all liability to the owners for such destruction are not repugnant to section 1 of the XIVth Amendment to the Federal constitution or to section 9 of article 1 of the constitution of Wisconsin. Ibid., 588.

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OPEN SEASON FOR GAME.

SPORTSMAN'S HANDY REFERENCE.

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